Intro

Table 1.1-Summary of Impacts and Mitigations (***last item to be completed as DSEIR***)

2.0 Introduction

2.1 EIR Requirement

This Draft Supplemental Environmental Impact Report supplements an Environmental Impact Report prepared to address the impacts of the Midtown Specific Plan in the southerly portion of the City of Milpitas, which is located in Santa Clara County, California.

The Environmental Impact Report for the Midtown Specific Plan was adopted by the Milpitas City Council on March 19, 2002 by City Council Resolution No. 7150. The Midtown Specific Plan includes approximately 942 acres of land generally bounded by Union Pacific Railroad tracks on the east and north, Abel Street and the Elmwood Rehabilitation area on the west and the Milpitas City Limits on the south. This Environmental Impact Report is hereafter referred to as the "Midtown EIR." The State Clearinghouse Number (SCH) for this EIR is 2000092027.

A number of Program-level changes are being considered at this time in the Midtown Specific Plan as described further in this document. These changes include modifications to land use for an approximately 11-acre parcel within the Midtown Specific Plan area that would change the existing Industrial Park land use designation to Very High Density. This project is known as the Estrella Project. Consistent with CEQA and CEQA Guidelines and City of Milpitas policy, an Initial Study was recently completed to determine if the proposed project would require additional environmental review beyond that analyzed in the Midtown EIR. The Initial Study is found in Appendix 8.1. The Initial Study disclosed that many anticipated impacts of the proposed actions have been adequately addressed in the Midtown EIR. Although the Initial Study concluded that previous EIR adequately analyzed most of the potential environmental impacts of the proposed project, it also identified the potential for a number of new significant impacts or potentially intensified impacts beyond those analyzed in the Midtown EIR. The City of Milpitas has determined that the potential for new and/or substantially intensified impacts required review at an EIR level and concluded that a new Supplemental EIR should be prepared.

Consequently, as required by CEQA, a Notice of Preparation (NOP) has been prepared and circulated to interested public and private parties. A copy of the NOP is included as Appendix 8.2 and responses to the NOP are included in Appendix 8.3.

2.2 Scope of Supplemental EIR

Once an EIR is certified for a project, CEQA prohibits Lead Agencies from preparing a supplemental or subsequent EIR except under specific circumstances. According to CEQA Guidelines Section 15162, additional EIR-level review may be required only when substantial changes to a project would cause new or substantially increased significant effects, or when substantial changes in circumstances within the surrounding environment would result in new or substantially increased significant effects, or when substantial new information shows the project would cause new or

substantially increased significant effects, or when it is shown that previously infeasible mitigation measures would now be feasible but the project proponent declines to adopt them.

As identified in the Initial Study (see Appendix 8.1), there may be changed circumstances and new information since certification of the Midtown EIR that could result in new or intensified significant impacts as related to the currently proposed project. These include:

1. Traffic impacts may differ with the proposed project since a change of land use for a portion of the Midtown Specific Plan has been requested.
2. Aesthetic conditions on the project site may have changed with the requested change of land use.
3. Air quality regulations may have changed since certification of the Midtown EIR.
4. The requested change of land use to introduce a resident population on the site may expose residents and visitors to noise levels in excess of City of Milpitas noise standards.
5. The proposed project would increase the amount of population in the Midtown Specific Plan area and potential impacts of this change should be analyzed in the Supplemental EIR.
6. The General Plan and Midtown Specific Plan land use designations have been requested to be changed as part of the project, so that such changes need to be evaluated in the Supplemental EIR.

The Initial Study identifies impacts to the categories of aesthetics, air quality, cultural resources, land use and planning, noise, population and housing, public services, recreation, transportation and planning, utilities and recreation further review in a Supplemental EIR.

This Draft Supplemental Environmental Impact Report ("DSEIR") describes the degree to which the Project's potential impacts to these environmental categories were adequately addressed in the previously certified Midtown EIR. It further describes the type and extent of potential significant impacts beyond those analyzed in the previous EIR. Where supplemental significant impacts are identified, mitigation measures are proposed to reduce the impacts to a less-than-significant level.

CEQA requires that an EIR identify a reasonable range of alternatives, which was done in the Midtown EIR for the Specific Plan area. To address the potential for new and/or substantially intensified significant impacts, this DSEIR identifies an additional alternative to the proposed project that could avoid or potentially lessen identified impacts.

This DSEIR provides a project level environmental document to assess the specific impacts of amending land uses in the General Plan and Midtown Community Specific Plan for the southerly 11 acres of land in the Midtown Specific Plan area located on the northwest corner of South Main Street and Montague Expressway. Therefore, the Midtown EIR and this Draft Supplemental EIR (DSEIR) together fully

identify and assess all of the potentially significant impacts of the proposed actions associated with this project.

The Midtown EIR is available for review at the Milpitas Planning and Neighborhood Services Department, 455 East Calaveras Boulevard, Milpitas, 95035 during normal business hours.

2.3 Legal Basis for Supplemental EIR

Based on the previous EIR analysis and CEQA Guidelines Sections 15162 and 15163, the City has determined that a Supplemental EIR should be prepared for this project.

The City has determined that the current project does not raise new policy issues as to the type, location, direction or extent of growth. Further, the range of potential impacts identified in the Initial Study is the same range as previously analyzed in the previous EIR. Finally, the nature of the potential changes identified in the project Initial Study generally requires updating or refinement of the previous EIR analysis, rather than a full re-analysis and consistent with both Subsequent and Supplemental EIR provisions of CEQA Guidelines Section 15162 and 15163, the City will not approve the project without first certifying an EIR which comprehensively addresses the potential for significant environmental impacts of the current project beyond those addressed in the previous EIR.

2.4 Organization of Draft Supplemental EIR

The DSEIR supplements the Midtown EIR certified by the City of Milpitas for the Midtown Specific Plan Environmental Impact Report (SCH #200092027, "Midtown EIR," incorporated herein by reference).

This document is organized as follows:

- **Chapter 1: Summary of Impacts and Mitigation Measures**. This is presented in text and tabular form.

- **Chapter 2: Introduction**. Chapter 2 describes the organization of the DSEIR.

- **Chapter 3: Project Description**. This chapter describes the proposed Project, Project location and setting. Project Objectives are also described as well as future approvals required to implement the proposed Project.

- **Chapter 4: Environmental Setting, Impacts and Mitigation Measures**. Chapter 4 includes the impact and mitigation analysis for the Project. Each environmental topic includes existing conditions (the setting); potential supplemental environmental impacts and their level of significance; and mitigation measures recommended to reduce identified significant impacts.

- **Chapter 5: Alternatives**. This chapter addresses an alternative to the proposed Project and a discussion of an environmentally superior alternative.

- **Chapter 6: Required CEQA Discussions**. Chapter 6 includes a discussion of cumulative impacts and significant and unavoidable impacts of the proposed project.

- **Chapter 7: Report Author and Organizations and Persons Consulted**. Chapter 7 lists the authors of the EIR and organizations and persons consulted as part of the environmental analysis.

- **Chapter 8: Appendices**. Contained in the Appendices are the Initial Study, Notice of Preparation (NOP), responses to the NOP, the City Council Resolution approving the Midtown EIR, including mitigation findings, overriding considerations and mitigation monitoring program; and copies of the supplemental air quality analysis, biological analysis, noise analysis, traffic analysis and Phase I Environmental Site Assessment report.

2.5 DSEIR Review Process

The DSEIR will be circulated for public review and comment pursuant to CEQA. Written responses will be prepared to all relevant comments on environmental issues received during the 45-day public review period. Public comments and responses will be compiled in a Final Supplemental EIR (FSEIR), which will be available for public review at least 10 days prior to consideration of certification of the SFEIR by the City of Milpitas. After certification of the SEIR, the County will consider the requested Project approvals and make appropriate findings based on the certified SFEIR.

3.0 PROJECT DESCRIPTION

3.1 Project Location

The approximately 11-acre project site is located in the in the southern portion of Milpitas, bounded on the north and west by a single family residential neighborhood, on the east by South Main Street and on the south by Montague Expressway.

The project site is a part of the larger Midtown Specific Plan, adopted by the City in 2002, that includes approximately 292 acres of land generally bounded by Union Pacific Railroad lines on the east and north of the planning area, Abel Street and the Elmwood Rehabilitation Center on the west and the City limits on the south.

Exhibit 3.1 depicts the regional setting of Milpitas and **Exhibit 3.2** shows the location of the project area in context with nearby features, including the Specific Plan boundary, freeways, major surface streets and other features.

The project site is generally flat and has been developed as an Industrial Park for approximately twenty years. Other than existing buildings, the most significant feature on the site is a row of mature trees on the northerly and westerly perimeter.

Street addresses for existing buildings on the site include 1601 through 1765 South Main Street and the County Assessor Parcel Number is 086-21-073.

Surrounding land uses include single-family dwellings and an elementary school to the west and north and commercial uses to the east. Properties south of the project site, south of Montague Expressway, are within the jurisdiction of the City of San Jose and are developed for commercial uses.

3.2 Project Area Features

On-site land uses
As noted above, existing site improvements consist of a mix of one and two-story buildings occupied by a variety of office and high-tech businesses. Surface parking surrounds the buildings and major access to the site is provided by driveways along South Main Street. A right-turn in secondary site access has been constructed along Montague Expressway.

Adjacent land uses
Surrounding land uses include single-family dwellings and an elementary school to the west and north and commercial uses to the east. Properties south of the project site, south of Montague Expressway, are within the jurisdiction of the City of San Jose and are developed for commercial uses.

3.3 Prior Planning Approvals

On March 1, 2002, the Milpitas City Council approved the Midtown Specific Plan that is intended to guide the redevelopment of approximately 943 acres of land in the southerly portion of Milpitas. Predominant land uses in the Specific Plan area include commercial and industrial uses, including but not limited to auto services, building materials and storage, retail uses, public uses and research and development/light industrial uses. Portions of the project area are also vacant.

Portions of the Specific Plan area are located within two redevelopment project areas formed by the City of Milpitas.

Purposes of the Midtown Specific Plan related to land use are to:

1) Encourage a compatible mix of residential, retail, office, service-oriented commercial and industrial uses within the Midtown area;
2) Provide for a significant component of new housing to improve the vitality of the project area, address local and regional housing needs and reinforce the use of transit;
3) Promote an intensity of development in the midtown area that is appropriate to its central location; and
4) Provide for a land use mix that promotes transit.

At buildout, the Midtown Specific Plan would accommodate an additional 2,379 housing units above 2020 housing unit projections for the City of Milpitas, or an increase of 6,400 persons.

The Circulation Element of the Midtown Specific Plan focuses on improvements to the vitality of pedestrian, bicycle and transit systems and balance the need of through-movement with livability and pedestrian oriented land use design. The street system includes a new street near the Capitol/Montague transit station and within railyards as well as closure of a portion of Carlo Street. New pedestrian and bicycle paths are also proposed. Circulation improvements are to be linked with a program of streetscape improvements that includes landscaping, bicycle lanes, lighting, benches and sidewalls to foster non-auto travel modes.

The Community Design Element of the Midtown Specific Plan calls for the creation of a downtown district that is attractive and uniquely Milpitas, establishes a pedestrian-oriented, mixed-use district that is centered on South Main Street, provides open space that serve multiple purposes and improves the character of streets within the project area

Proposed utility improvements consist of new and upgraded water facilities, recycled water facilities to minimize use of potable water for landscape irrigation, new and upgraded wastewater facilities to support the amount of development in the project area and necessary storm drain and surface water quality improvements.

The Midtown Specific Plan also includes development standards and design guidelines as well as methods to implement and administer the Specific Plan.

Midtown EIR
A program EIR to assess the impacts of the Midtown Specific Plan was prepared by the City of Milpitas. As would be expected for a major project, the Midtown EIR identified many potential significant impacts on both a project and a cumulative (regional) level. Mitigation measures were proposed and adopted for most of the significant impacts to reduce them to less than significant.

Even with mitigation, however, some of the identified significant impacts could not be reduced to a less than significant level. These impacts unacceptable intersection operations (baseline plus project), unacceptable intersection operations under future conditions (baseline plus project), unacceptable future roadway segment operations, long-term regional air emissions and cumulative long-term regional air quality impacts.

As required by CEQA, the Midtown EIR identified project alternatives, including a "No Project" alternative, development of the project area with higher density development and development of the area with lower density residential development.

3.4 Project Applications

Overview
An application has been filed with the City of Milpitas to amend the General Plan and Specific Plan, changing the land use designation from "MP-Industrial Park" district to "R-4-Residential Very High Density," a rezoning to "Multifamily Very High Density Residential" district to ensure consistency between the modified General Plan and Specific Plan land use designations and City zoning, a subdivision map to create all "for sale" housing units and Site and Architectural Review for consistency with Midtown Specific Plan development standards and design guidelines.

Exhibit 3.3 shows the existing and proposed Milpitas General Plan and Midtown Specific Plan land use designations on the project site.

As part of the proposed project, the existing low-rise industrial park that contains approximately 166,680 gross square feet of building floor space, would be demolished.

Other required permits and approvals include issuance of grading and building permits, and water and sewer connections from the City of Milpitas.

Project characteristics
Following demolition of existing site improvements, the applicant proposes to construct a combination of up to 257 four story stacked condominium dwellings fronting on South Main Street. Attached townhouses would be constructed around

the south, west and northerly boundaries of the site. Up to 112 townhouse dwellings would be built.

The four-story portion of the project would be sited within three separate buildings in the approximate center of the 11-acre site fronting on South Main Street. Dwellings would include a mix of stacked flats and townhouses to provide a mix of housing types. Buildings would be designed around a hollow square with recreational features provided in the center of each of the three buildings. Elevators would be provided in each of the three buildings. Dwellings would include a mix of two and three bedroom dwellings and would range in size between approximately 809 and 1,582 square feet each.

Individual townhouse dwellings would be located around the northerly, westerly and southerly perimeter. Townhouses would be of two-story construction with the second story "stepped back" from the ground floor. Townhouse units would include a mix of two and three story bedrooms and two baths ranging in size between approximately 1,192 and 1,634 square feet each.

Exhibit 3.4 shows the proposed site plan for the Estrella project.

Exterior elevations are shown on **Exhibit 3.5.** The design is intended to reflect a Mediterranean theme with use of tile roofs, exterior stucco finishes and balconies.

Area access, parking and circulation
Access to the project site would be provided by driveways located on South Main Street, including a traffic signal at the intersection of the northerly driveway and South Main Street. The existing right-turn in drive along the Montague Expressway frontage would be converted to a limited access Emergency Vehicle Access in approximately the same location.

Internal private roadways would be constructed to provide access to both the podium condominiums and the townhouse dwellings as shown on **Exhibit 3.4**

On-site parking would include a total of 868 spaces. Each townhouse dwelling would have a 2-car enclosed garage and podium buildings would each have a parking garage on the lower floors of each building. Guest parking would be provided adjacent to internal roadways and within a parking lot adjacent to one of the open space areas. The proposed project would comply with on-site parking requirements established in Section 4.0 (a) of the Midtown Specific Plan.

Pedestrian access would be provided between the proposed Estrella project and the residential community to the west.

Open space, landscaping and recreation features
The row of existing oak trees and other trees exist in a landscaped setback along the westerly and northerly property lines of the site. These trees are proposed to be retained and integrated into the landscape plan for the project (see **Exhibit 3.6**). The landscape plan also includes new plantings along South Main Street and within the project area.

The proposed subdivision of the project site is shown on **Exhibit 3.7**.

Recreation features include a swimming pool and clubhouse. Other recreational features would consist of common areas in each of the three podium buildings that are planned to contain a childcare center, business center and similar uses. Use of these facilities would be limited to residents and guests.

Infrastructure, grading and maintenance
The entire site would be re-graded in order to accommodate proposed building pads and internal roadways. A precise grading plan has not yet been prepared, but, according to the applicant, there may be a need to off-haul excess material.

New water lines would be constructed on the project site and connected with existing distribution water mains in adjacent streets. Sewer laterals would be constructed and also connected to existing facilities in adjacent streets. Other utilities, including but not limited to natural gas, electrical, telecommunication and cable television, would also be provided.

Storm water drainage would be collected within internal streets and conveyed to a City of Milpitas storm drain system for disposal. The applicant will comply with City of Milpitas NPDES clean surface water standards.

On-site facilities would be maintained by a homeowners association.

3.5 Project Objectives

The objectives of the Midtown Specific Plan are set forth in the Midtown EIR (DEIR p. 2-12**).** All of the identified objectives for the Midtown Specific Plan remain objectives of the proposed Estrella project a well. Additional objectives include.

a) Amend the Midtown Specific Plan area to reduce the amount of light industrial land use that may not be supportable or appropriate from a market perspective.
b) Achieve development of up to 369 very high-density dwelling units on the project site.
c) Provide for the development of additional high density residential uses further strengthening the purposes of the Midtown Specific Plan of encouraging residential use near public transit.

3.6 Future Actions Using This Draft Supplemental EIR

This Draft SEIR supplements the certified Midtown Specific Plan pursuant to Sections 15162 and 16163 of the CEQA Guidelines for the following anticipated future actions related to the proposed Project.

- An Amendment to the City of Milpitas General Plan and Midtown Specific Plan to change the existing Industrial Park land use designation to the Very High Density Residential land use designation

- Rezoning of the site from the MP Industrial Park zoning district to the R4, Multi-Family High Density Residential zoning district.
- Consideration of a subdivision map and Site and Architectural Review applications by the City of Milpitas.
- Issuance of demolition permits, building permits and utility extensions and connections to support the proposed Estrella project.
- Issuance of encroachment permits by the City of Milpitas and County of Santa Clara (Montague Expressway frontage only)

In addition to the above approvals, the DSEIR may also be used by State, regional and/or Federal agencies in their review of other permits required for the project.

Exhibit 3.1. Regional Location

Exhibit 3.2. Midtown Specific Plan area

Exhibit 3.3 Existing and Proposed General and Specific Plan Designations

Exhibit 3.4 Proposed Site Plan

Exhibit 3.5. Exterior Elevations

Exhibit 3.6. Landscape Plan

Exhibit 3.7. Subdivision Map

Topics Addressed in the DSEIR
This section of the DSEIR identifies specific environmental areas which may be affected as a result of the implementation of the proposed Project. The impact areas are discussed individually in subsections 4.1 through 4.11:

Each topic area is covered in the following manner:

A. Environmental Setting
A discussion of existing conditions, facilities, services and general environmental conditions on and around the project sites.

B. Impacts and Mitigation Measures from the Midtown EIR
This section summarizes impacts and mitigation measures included in the Midtown EIR.

C. Supplemental Environmental Impacts
An identification and evaluation of whether the potential impacts on the environment identified in the Initial Study, should the Project be constructed as proposed would result in a significant substantially increased manner beyond the analysis in the Midtown EIR based on the standards of significance set forth therein.

D. Supplemental Mitigation Measures
An identification of specific efforts and measures which can be incorporated into the Project to reduce identified supplemental environmental impacts to a level of insignificance.

4.1 AESTHETICS

INTRODUCTION

Aesthetic issues were addressed in Chapter 3.1 of the Midtown EIR. This chapter of the Supplemental EIR analyzes any changes to impacts related to scenic qualities of the proposed Estrella project that were not addressed in the Midtown Specific Plan or different or more severe impacts that were included in the earlier EIR.

ENVIRONMENTAL SETTING

The Midtown EIR identified the visual and aesthetic qualities of the Midtown Specific Plan project area in terms of building style, building scale, streetscape, open space and views and landmarks and focal points. These are described below.

Building style
Buildings in the Midtown Specific Plan area were identified as a mix of new and old single and multi-story structures representing several architectural styles with few common patterns. A variety of materials, finishes, colors, roof shapes and other features are found in the project area. The Monte Vista and Parc Metropolitan residential projects, both relatively recently completed, were identified as representing a more cohesive architectural and site design.

Building scale
Buildings, parcels and roadways throughout the Midtown Specific Plan area are varied in scale and size. Buildings along South Main Street are typically on smaller lots while buildings on the Calaveras corridor, McCandless and Montague are larger buildings oriented toward auto access.

Streetscapes
South Main Street as identified in the Midtown EIR reflects a strip commercial development pattern and has a relatively narrow cross section.

Abel Street is a major four-lane, north-south roadway and once functionally served as a local road, but has evolved into an alternative for northbound commuters bypassing Highway 880 during the evening peak hour period. The streetscape is irregular and lacks tree planting.

Calaveras Boulevard follows circuitous path from I-880 through the Midtown planning area. The streetscape is characterized by irregular landscape treatment, broad surface parking lots, numerous signs and curb cuts , unusual building placement and skewed intersection alignments.

Great Mall Parkway and Montague Expressway are broad east-west streets leading though the planning area providing regional linkages. Streetscape improvements along these roads include wide unimproved medians with sound walls, irregularly placed street trees and broad intersections.

Open space and views
No developed open spaces exist within the Midtown Specific Plan. Public parks have been planned as part of specific development projects and several off- and on-street trails are included in the Midtown Specific Plan. Several open views to the foothills east of Milpitas provides a visual backdrop to the planning area and a strong sense of orientation while traveling through this area.

Landmarks and focal points
The planning area contains several landmarks and focal points that contribute to the area. These include the Milpitas Senior Center, Campbell's Corner, the DeVries House, and several craftsman and Victorian-style dwellings.

IMPACTS AND MITIGATION MEASURES FROM THE MIDTOWN EIR

The Midtown EIR noted that one of the purposes of the Midtown Specific Plan is to improve the appearance and visual character of the planning area. The Specific Plan contains development standards and guidelines, streetscape improvements and provision for open spaces and parks that would assist in achieving this goal. The Specific Plan also recommends maintaining existing architectural and landscape elements that contribute to a sense of place and provisions for introducing new structures and activities to contribute to a sense of place and local history.

The Midtown EIR noted that approval and implementation of the Midtown Specific Plan would introduce a cohesive urban form in the planning area that would reinforce pedestrian accessibility. The Specific Plan includes development standards and design guidelines that govern land use, form, building scale, building orientation, height and connectivity. Streetscape improvements are intended to contribute to pedestrian accessibility and connectivity through landscape improvements, including new streets, sidewalks, pathways and bicycle routes.

In terms of urban form, the Midtown Specific Plan recommends maintaining the architectural and landscape elements while ensuring new development is harmonious with the existing urban fabric.

Based on the goals, policies, standards and guidelines contained in the Midtown Specific Plan, no impacts to visual or aesthetic topics were identified.

SUPPLEMENTAL IMPACTS AND MITIGATION MEASURES

The proposed project would change the land use on the 11-acre Estrella site from an industrial park to very high-density residential uses. Existing one and two story buildings along with parking lots would be removed and replaced with residential dwellings as described in the Project Description section (Section 3).

Significance criteria. Based on the Initial Study, approval and implementation of the project would be considered to have a significant impact on aesthetic conditions if it were to result in:

- A substantial degradation of the visual character or quality of the site and its surroundings; or
- Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

Supplemental impacts. The proposed project would change the land use on the 11-acre Estrella site from an industrial park to very high-density residential uses. Existing one and two story buildings along with parking lots would be removed and replaced with residential dwellings as described in the Project Description section (Section 3).

Supplemental impacts. Two potentially significant supplemental impacts are identified in this DSEIR: a potential for the proposed project to significantly degrade the visual character or quality of the site and the potential for significant emission of light or glare.

Degradation in visual character or quality of the site. Two photosimulations have been prepared to assess the potential for project approval and construction to degrade the visual quality of the site.

Exhibit 4.1.1 depicts the project site looking north on South Main Street just south of the project site. Existing views are of the low-rise South Bay Tech Center behind a row of mature street trees. The same exhibit depicts a simulation of the completed Estrella project on the site based upon current building elevations. The Estrella project would include four story buildings relatively close to South Main Street that would be partially blocked by existing mature street trees. Although the post-project views would be different than existing light industrial site conditions, the developed use of the site with high density dwellings would not change and the proposed project would result in a more urban appearance along South Main Street. Since one of the purposes of the Midtown Specific Plan is to encourage high-density residential development in this portion of the community, there would be *no supplemental significant impacts* with regard to degradation of views from this viewpoint.

Exhibit 4.1.2 depicts existing and post-project simulated conditions of views of the project site from Cedar Court. Cedar Court is a local residential cul-de-sac street just west of the project site. This site was selected since it represents an optimum view of the site from a public place from the adjacent neighborhood. South Bay Tech Center buildings are not visible in the existing conditions portion of the exhibit, primarily due to the setback from existing buildings to the property line and the dense plantings of mature trees adjacent to the westerly property line. With completion of the proposed Estrella project, portions of upper floors of proposed townhouses would be visible from Cedar Court, however, the views would be partially blocked by existing tree plantings. The views of the proposed buildings would be noticeable, but not obtrusive. There would therefore be *no supplemental significant impacts* with regard to degradation of views from Cedar Court.

Light and glare impacts. There is a possibility of spillover of light and glare from proposed lighting on the Estrella site onto adjacent properties to the north and west. However, since no driveways would be located adjacent to the westerly or northerly

property lines, the potential for spillover of significant sources of light from the project site to adjacent properties would be less than significant based upon adherence to standard City development conditions that require on-site luminaries to include horizontal cut-off lenses and there would be no significant supplemental impacts with regard to light and glare impacts.

Exhibit 4.1.1. Photosimulation

Exhibit 4.1.2. Photosimulaton

4.2 UTILITIES

INTRODUCTION

The topic of utilities was analyzed in Chapter 3.5 of the Midtown EIR. This chapter of the Supplemental EIR analyzes any changes to impacts related to the provision of water and availability of wastewater treatment capacity to support changes in the Midtown Specific Plan.

ENVIRONMENTAL SETTING

Water. Potable water is provided to the Midtown planning area by the City of Milpitas through its municipal water system. The City purchases wholesale water from two sources: the San Francisco Public Utilities Department delivered through the Hetch-Hetchy system and the Santa Clara Valley Water District delivered through the South Bay Aqueduct.

Milpitas has a supply assurance of 9.23 million gallons per day (10,340 acre feet per year), although this could be reduced in drought years from the San Francisco Public Works Department. In fiscal year 2004-05, the City purchased approximately 11.02 million gallons of water per day (12,345 acre-feet). The cost of purchasing additional water is anticipated to increase and the demand of water was anticipated to be relatively costly. After the year 2004, the City was anticipated to rely more on Santa Clara Valley Water District to meet water demand.

Water supplied by the Santa Clara Valley Water District is derived in part from contracts with the State of California Department of Water Resources and U. S. Bureau of Reclamation. The City's contract with the District allows for increases in the amount of purchased water over time.

To maximize use of water resources, the City participates in a regional water conservation program that provides for use of low-flow showerheads and faucet aerators, a washer rebate program and several other commercial use programs. Recycled water is also available in Milpitas, with treated wastewater available from the South Bay Water Recycling Program that is distributed throughout the community via a transmission line running through the Midtown planning area. The proposed project is not required to use recycled water for on-site irrigation at this time.

Wastewater. Wastewater generated in the City of Milpitas is transported through a force main to the Regional San Jose/Santa Clara Water Pollution Control Plant for treatment. This plant is owned and operated by the cities of San Jose and Santa Clara. Effective July 1, 2006, an agreement between these two cities and Milpitas was modified to increase the Milpitas discharge by 1.0 million gallons per day (mgd), from 12.5 to 13.5 mgd. This increase was necessary to accommodate the Midtown Specific Plan. The City of Milpitas treatment capacity is now approximately 8.1% of the plant total capacity.

The City of Milpitas purchased an additional wastewater capacity of 1.0 million gallons per day from West Valley Sanitation District, so Milpitas's capacity is now 13.5 million gallons per day (approximately 8.1% of total plant capacity), effective for 2006-07.

The Midtown EIR noted that as of mid-2000, the City of Milpitas was generating approximately 10.23 million gallons per day, approximately 82 percent of the maximum City allotment.

IMPACTS AND MITIGATION MEASURES FROM THE MIDTOWN EIR

The Midtown EIR determined that the amount of development anticipated in the Midtown Specific Plan could be supplied an adequate potable water by the City of Milpitas. This conclusion was based on an estimated flexibility in population projections undertaken by the Santa Clara Valley Water District combined with the City's ability to purchase additional water supplies if required. This impact was deemed less-than-significant.

The Midtown EIR found a potentially significant impact with regard to providing adequate wastewater treatment capacity for the Midtown Specific Plan. The EIR noted that development of the Midtown Specific Plan would generate an estimated 0.4 million gallons per day peak dry weather flow into the regional treatment plant. The regional treatment plant does not have plans to expand capacity and, in order to assure buildout of the Midtown Specific Plan, excess wastewater treatment capacity would need to be obtained from another agency or some method must be found to expand the San Jose/Santa Clara treatment plant.

Thus Impact Util-1 found that buildout of the Midtown Specific Plan would generate an additional 0.4 million gallons of wastewater per day above the capacity available to the City of Milpitas at the San Jose/Santa Clara treatment plant. This was identified as a significant impact.

Mitigation Measure Util-1 requires the City of Milpitas to continue water conservation efforts and directs the City to monitor for adequate wastewater capacity to serve existing and approved development in the City. The Planning Division shall coordinate with the Utilities Division to require a sewer needs assessment to be completed by the developer prior to development approvals. The Utilities Division of the City shall continue to keep a running estimate of how much capacity remains citywide to aid in this analysis

SUPPLEMENTAL IMPACTS AND MITIGATION MEASURES

The proposed project includes a change of land use on the project site from Industrial Park to Very High Density Residential. This DSEIR examines whether water use and a potential for increase of wastewater generation related to potential change of land use might differ significantly from that evaluated in the Midtown EIR.

Significance criteria. Implementation of the Project would be considered to have a significant impact on water supply and distribution if it were to result in:

- Insufficient water supplies or require new or expanded water use entitlements that are not currently planned or provided for;
- Conditions that would violate wastewater discharge requirements; or
- A determination by the wastewater treatment provider which served the project that it has inadequate capacity to serve the project's demands, in addition to the provider's existing commitment.

Supplemental impacts. Following is a discussion of potential supplemental impacts related to water and wastewater services.

Supplemental water impacts. The Estrella project site is presently served water by the City of Milpitas. Table 4.2.1 compares existing use of water on the site versus estimated increases in demand with the proposed land use change.

Table 4.2.1. Existing and Proposed Water Demand

Land Use	Water Demand Factor	Demand Factor	Estimated Water Use
Industrial Park	2,000 gallons/day/ac.	11 acres.	22,000 gallons/day
Very High Density Residential	243 gallons/day/du.	369 dwellings	89,667 gallons/day
Difference			+67,667 gallons per day

Note: Water demand factor provided by City of Milpitas Utility Engineering

Thus, at full buildout, the proposed Estrella project would result in consumption of an estimated 67,667 gallons of water per day over the estimated demand for the existing industrial park. Since the amount of additional water required to serve the proposed Estrella Project is not included in the City's Water Master Plan and was not included as an impact in the Midtown EIR, the need for additional water would be a significant supplemental impact.

Supplemental Impact UTL-1 (water supply). The proposed project would require additional sources of domestic water not presently anticipated in the City's Water Master Plan (*significant supplemental impact and mitigation required*).

The impact would be reduced to a less-than-significant level by adherence to the following measure.

Supplemental Mitigation Measure SM-UTL-1 (water supply). The project developer shall purchase additional water supplies to support the proposed development, including costs of capacity and storage needs above Water Master Plan capacities, as determined by the City.

City development policies require each developer within the project site to design and install water mains and similar water improvements in accordance with the

City's Water Master Plan. In addition, each developer is required to pay all water fees, including connection fees and water treatment plant fees. Developers may receive reimbursements for excess costs under certain circumstances. Each developer is also encouraged to implement as many water conservation measures as possible into construction projects.

Wastewater capacity. The proposed project would also generate additional wastewater effluent, as shown in Table 4.2.2, below.

Table 4.2.2. Existing and Proposed Wastewater Generation

Land Use	Wastewater Demand Factor[(1)]	Demand Factor	Estimated Wastewater Generation
Industrial Park	1,000 gallons/day/ac.	11 acres.	11,000 gallons/day
Very High Density Residential	243 gallons/day/du.	369 dwellings	89,667 gallons/day
Difference			+78,664 gallons per day

Note: Water demand factor provided by City of Milpitas Utility Engineering

Even though the City of Milpitas recently increased its wastewater treatment capacity, it cannot be assumed that all proposed wastewater discharges exceeding the estimates included in the Midtown Specific Plan can be accommodated by the City of Milpitas. It is anticipated that Citywide demand will exceed the available capacity in the near future, Affordable housing projects are given first priority for wastewater capacity. The remaining wastewater capacity is allocated based on the rule of priority for a project. Wastewater availability will be determined at that time.

The proposed project would result in generation of an estimated 78,664 gallons per day of wastewater effluent above that included in the City's Sewer Master Plan and would result in a *potentially significant supplemental impact.*

In addition, the City's main sewage pump station is currently operating near or at full capacity during dry weather periods due to the configuration of the system. The additional discharge from the proposed project could result in backup of flow onto the sewer collection system and result in overflow problems. The existing pump station is configured with a 10-foot diameter wetwell (reservoir) with four pumps located around the perimeter. Due to the size limitation of the wetwell, additional pumping capacity cannot be obtained by increasing the size of pumps or adding additional pumps. Reconstruction of the Main pump station may be required to accommodate the increased pumping capacity as a result of the proposed project. This would also be a *potentially significant supplemental impact*.

Supplemental Impact UTL-2 (wastewater treatment and sewage pumping capacity). The proposed project could exceed wastewater treatment capacity not presently anticipated in the City's Water Master Plan and exceed the pumping capacity of the

City's Main sewer pump station (*significant supplemental impact and mitigation required*).

The impact would be reduced to a less-than-significant level by adherence to the following measure.

Supplemental Mitigation Measure SM-UTL-2 (wastewater treatment and sewage pumping capacity). The developer shall purchase adequate public system wastewater treatment capacity to serve the proposed project, as well as fair share fees to replace or upgrade the Main sewer pump station, as determined by the City. The project developer shall provide the City of Milpitas with documentary evidence that adequate facilities for wastewater treatment and collection are available to serve the project prior to planning permit approval.

4.3 PUBLIC SERVICES

INTRODUCTION

Public Service impacts of the proposed Midtown Specific Plan were addressed in Chapter 3.6 of the Midtown EIR. This chapter evaluated impacts of the proposed Specific Plan on police services, fire services, schools and parks.

ENVIRONMENTAL SETTING

Police Services. The City of Milpitas Police Department provides police services to the Midtown EIR area from a central police headquarters at 1275 North Milpitas Boulevard.

Fire Services. Fire protection and suppression services to the community are provided by the Milpitas Fire Department. The Department also provides emergency medical response, rescue services, hazardous and toxic emergency response, disaster response service, fire code enforcement and arson investigation.

Parks. The Midtown EIR identified six recreation and open space areas within the Midtown planning area totaling approximately 54 acres of land. However, it was noted that not all area are publicly accessible. These areas included:

- Golf Range, 27.9 acres located in Santa Clara County.
- The YMCA, 1.5 acres located in Santa Clara County
- Milpitas Senior Center, 1.7 acres located in Milpitas
- DeVries House, 1.2 acres located in Milpitas
- Berryesa Creek Channel, with 5.4 acres of land in the City and 1.7 acres in Santa Clara County
- Peachtree Creek Channel, 14.7 acres in Santa Clara County

In addition to the above, the City maintains a mini-park in the vicinity of the Parc Metropolitan residential area.

Parks maintained by the City of Milpitas outside but near the Midtown EIR area include: Pinewood Park and Starlight Park.

IMPACTS AND MITIGATION MEASURES FROM THE MIDTOWN EIR

The Midtown EIR identified the following impacts related to public services.

The Midtown EIR noted that additional police officers would be needed to serve the increase in population resulting from implementation of the Specific Plan. The Midtown EIR estimated approximately 20 additional officers would be needed at buildout to serve an estimated population of 13,100 residents. The Milpitas Police Department was expected to add new officers and non-sworn staff on an as-needed basis to provide adequate public safety as well as necessary equipment. The addition of new officers would not require the construction of additional Police Department facilities, although a potential police substation was envisioned. The Midtown EIR concluded that impacts of the Midtown Specific Plan on police services was less-than-significant.

In terms of fire and emergency services, the Midtown EIR noted that additional fire and emergency service staffing would be needed as a result of the implementation of the Midtown Specific Plan. Such increases would include additional staffing for the Milpitas Fire Department. The City would add additional staffing as required to meet this anticipated increased demand. There would not be a need to add additional or expanded fire stations or other physical facilities to accommodate implementation of the Midtown Specific Plan, so there would be a less-than-significant impact with regard to fire and emergency services.

Regarding parks, the City of Milpitas has adopted a standard of 5 acres of parkland per 1,000 population. Midtown Specific Plan Policy 3.24 requires that all development projects provide public parks at a ratio of 3.5 acres of parkland per 1,000 residents, which is less than the remainder of the City, but this lower standard was adopted in order to promote higher density housing near transit facilities since limited land was available for parks in the planning area.

The Midtown Specific Plan also allows up to 1.5 acres of parkland per 1,000 population could be satisfied with the provision of on-site common open space within each development project. Smaller residential developments, consisting of 20 units or less, would be allowed to pay an in-lieu fee in place of providing parkland. With adherence to these Specific Plan policies, impacts related to parks was deemed less-than-significant.

SUPPLEMENTAL IMPACTS AND MITIGATION MEASURES

Significance criteria. Implementation of the Project would be considered to have a significant impact if it were to result in:

- the substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities;
- an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur; or

- generate solid waste in excess of the landfill's permitted capacity to accommodate the facility's solid waste disposal needs.

SUPLEMENTAL IMPACTS AND MITIGATION MEASURES

Police service supplemental impacts. Based on discussions with the Milpitas Police Department staff (personal communication with Captain Dennis Green, Milpitas Police Department, 7/08/06), the Police Department can provide adequate service to the Estrella project without the need for additional physical facilities, so there would be *no significant supplemental impact* with regard to police services.

Fire service supplemental impacts. Milpitas Fire Department has indicated that adequate fire and emergency services can be provided to the proposed project from existing fire stations and there would be no need to expand existing fire stations to add new fire stations. There would therefore be *no significant supplemental impacts* should the proposed project be approved.

Supplemental park impacts. The proposed project would be required to provide 3.5 acres of public parks per 1,000 residents. Up to 1.5 acres of this could include on-site, private recreational facilities. For the Estrella project, the amount of parkland required to be dedicated to the City would be 3.62 acres, based on a City-standard per unit occupancy of 2.7 persons per dwelling. This would be off set by on-site recreational facilities provided as part of the proposed project. The amount of credit for on-site facilities would need to be determined by the City of Milpitas Parks Department. his would be a *significant supplemental impact* not addressed in the Midtown EIR.

Supplemental Impact PARK-1 (provision of public parks). The proposed project should provide approximately 3.62 acres of public parkland based on the standard of 3.5 acres of parks per 1,000 residents established in the Midtown Specific Plan, which would be reduced based on credit for on-site facilities as allowed by the City of Milpitas Parks Department (*significant supplemental impact and mitigation required*).

The impact would be reduced to a less-than-significant level by adherence to the following measure.

Supplemental Mitigation Measure SM-PARK-1 (provision of public parks). The project developer shall pay park dedication in-lieu fees to the City of Milpitas for the required on-site dedication of public parks.

4.4 CULTURAL RESOURCES

Cultural resources were analyzed in Chapter 3.8 of the Midtown EIR. No changes to the Setting, Thresholds of Significance, Environmental Evaluation or Mitigation Measures are anticipated with regard to the approval of the proposed Estrella project. Since certification of the Midtown EIR, Senate Bill 18 (SB 18) has been adopted that requires consultation with Native American agencies and tribes by Lead Agencies with adopting or amending general plans or specific plans. Since this

proposed project includes amendments to both the Milpitas General Plan and Midtown Specific Plan, a Native American consultation was undertaken and documentation is included in Appendix 8.5.

Mitigation Measures Cult-1, Cult-2 and Cult-3 included in the Midtown Specific Plan to protect cultural resources will continue to apply to the Estrella project.

The proposed Estrella project would result in *no significant supplemental impacts* not analyzed in the Midtown EIR.

4.5 TRAFFIC AND CIRCULATION

INTRODUCTION

Traffic and Circulation impacts were analyzed in Chapter 3.9 of the Midtown EIR. This supplement to the previous EIR examines the proposed project to determine if any new or more significant impacts would exist regarding traffic or circulation issues as a result of changed land uses beyond such impacts included in the previous EIR.

The following chapter is based on an analysis prepared by Hexagon Transportation Consultants in July 2006 and is included as Appendix 8.6 in this DSEIR.

ENVIRONMENTAL SETTING

Existing Roadways. Regional access to the project site is provided via Interstate 680 (I-680), I-880 and State Route 237 (SR 237). Direct access to the site is provided via South Main Street. Other major facilities in the vicinity include Montague Expressway, Great Mall Parkway and South Abel Street. These facilities are described below.

I-680 is a north/south freeway traversing the eastern portion of Milpitas. This freeway connects the inland East Bay communities to the north with San Jose to the south. I-680 has six lanes plus a SB HOV lane north of SR 237 and eight lanes south of SR 237.

I-880 is also a north/south freeway providing regional access from East Bay cities to San Jose, where it becomes SR 17. Within the City of Milpitas, I-880 is primarily a six-lane freeway. South of Montague Expressway, this facility was recently widened to six lanes.

State Route 237/Calaveras Boulevard is an east/west arterial between I-880 and I-680 and generally provides six travel lanes (four on the Union Pacific overcrossing). West of I-880, this facility becomes a freeway with primarily four mixed flow lanes and two High Occupancy Vehicle (HOV) lanes. Calaveras Boulevard accommodates a significant amount of regional through traffic during the peak commute hours. Milpitas staff estimate that approximately 50 percent of the peak hour traffic between I-680 and I-880 is generated outside of Milpitas.

The predominant direction of travel is westbound in the morning and eastbound during the afternoon.

Great Mall Parkway is an east/west divided arterial connecting Capital Avenue to I-880. In general, this roadway operates within capacity and does not experience significant peak hour congestion except at its intersection with Montague Expressway. West of I-880, Great Mall Parkway becomes Tasman Drive.

Montague Expressway is an east/west expressway in southern Milpitas that generally provides six travel lanes and is operated by the Santa Clara County Roads and Airports Department. The peak direction of travel is westbound in the morning, and eastbound in the evening. This facility also provides HOV lanes both during the AM peak hours in the westbound direction and PM peak hours in the eastbound direction. Montague Expressway is a CMP facility that experiences moderate congestion during both commute periods.

South Main Street is a north/south collector connecting Montague Expressway to residential areas north of Calaveras Boulevard. This roadway consists of four travel lanes from Montague Expressway to just north of Curtis Avenue, where it transitions to a two-lane facility with parking on both sides. South Main Street currently operates within capacity, but experiences peak hour congestion at its intersection with Montague Expressway.

South Abel Street is a four -lane north/south arterial beginning at South Main Street and terminating at North Milpitas Boulevard. This roadway provides a center turn lane along some segments. This facility is signalized at major cross streets, where left-turn pockets are provided. On-street parking is generally prohibited, except adjacent to residential frontage. With the exception of certain movements at major intersections, this facility generally operates within its design capacity.

Pedestrian and Bicycle Facilities. Existing bicycle and pedestrian access to the proposed site is provided by a series of existing sidewalks and bike lanes on South Main Street and Abel Street. Bikes are also permitted to use the shoulder area of Montague Expressway.

Transit Service. Existing bus service on the surrounding roadway network is provided by the Santa Clara Valley Transportation Authority (VTA). Route 66 and Route 77, which service Milpitas and San Jose, are located closest to the proposed project site. Route 321 is a limited stop bus route that provides service along Montague Expressway near the project site. Table 3 contained in the traffic analysis report summarizes the service frequencies for these routes. Light rail connects North First Street in San Jose to Hostetter Avenue via center lane medians on Tasman Drive, Great Mall Parkway, and Capitol Avenue.

Existing Intersection Operations. Existing PM peak-hour traffic volumes for the six CMP intersections were obtained from the 2004 CMP Monitoring Report for Santa Clara County. For the AM peak hour at the CMP intersections and for both peak hours at the non-CMP intersections existing traffic counts were

obtained from the City of Milpitas. The traffic count data are included in Appendix A of the traffic analysis report.

The operations of the study intersections were evaluated using TRAFFIX software to determine their levels of service. The lane configurations used for the calculations are shown in Exhibit 4.5-1. The intersection turn movement volumes are shown in Exhibit 4.5-2. Table 4.5-1 presents the results of the signalized intersection level of service calculations. The TRAFFIX calculation sheets are included in Appendix B. According to the LOS standards discussed in Chapter 1, the following intersections are operating at unacceptable levels of service during the PM peak hour:

- South Main Street and Montague Expressway
- McCandless Drive/Trade Zone Boulevard and Montague Expressway

Table 4.5.1. Existing Intersection Levels of Service (LOS)

Intersection	Peak Hour	Count Date	Existing	
			Avg. Delay	LOS
South Abel Street/Great Mall Pkwy.	AM	5/4/05	29.9	C
	PM	5/4/05	28.8	C
South Main Street/Great Mall Pkwy.	AM	5/4/05	17.0	B
	PM	5/12/05	18.6	B
South Main Street/Oakland Rd/Montague Expy.*	AM	5/4/05	45.0	D
	PM	9/23/04	100.2	F
McCandless Dr./Trade Zone Blvd./Montague Expy.	AM	5/5/05	60.3	E
	PM	9/23/04	88.7	F
Great Mall Pkwy./East Capitol Ave./Montague Expy.*	AM	5/10/05	49.0	D
	PM	9/23/04	64.7	E
South Milpitas Blvd./Montague Expy.*	AM	5/11/05	31.8	C
	PM	9/23/04	35.1	D
McCarthy Blvd./O'Toole Ave./Montague Expy.*	AM	5/11/05	41.9	D
	PM	5/11/05	60.5	E
South Abel Street/South Main St.	AM	5/5/05	12.5	B
	PM	5/5/05	7.9	A
South Main St./Cedar Way	AM	5/11/05	15.4	B
	PM	5/11/05	11.6	B
South Abel Street/State Route 237*	AM	10/6/04	34.6	C
	PM	5/26/05	38.2	D

Note: * denotes CMP intersection
Source: Hexagon Transportation Consultants, 2006

IMPACTS AND MITIGATION MEASURES FROM THE MIDTOWN EIR

The Midtown EIR identified the following traffic and circulation impacts.

Roadway Operations. The following impacts to roadways were identified in the Midtown EIR.

Impact Traffic-1: Unacceptable Intersection Operations (Baseline Plus Project). Implementation of the Specific Plan was identified to have significant traffic impacts at fourteen intersections in and surrounding the Midtown project area. Nine of these intersections would be significantly impacted by project traffic in the AM peak hour and eleven intersections would be significantly impacted during the PM peak hour.

These intersections are listed as follows.

- Milpitas Blvd./Jacklin Rd./Abel St. (AM)
- **Calaveras Blvd. (SR-237)/Abbott St. (AM)**
- Calaveras Blvd. (SR 237)/Abel Street (PM)
- **Calaveras Blvd (SR 237)/Milpitas Blvd. (PM)**
- South Main St./Corning Ave. (PM)
- Tasman Dr./Alder Dr. (PM)
- **Tasman Dr./I-880 SB Ramps (AM/PM)**
- **Great Mall Pkwy./I-880 NB Ramps (AM/PM)**
- **Great Mall Pkwy./Abel St. (AM)**
- **Montague Expy./South Main St./Oakland Rd. (AM/PM)**
- **Montague Expy./McCandless Dr./Trade Zone Blvd. (PM)**
- **Montague Expy./Great Mall Pkwy. (AM/PM)**
- Montague Expy./Milpits Blvd. (AM/PM)
- South Main St./Carlo St.

(Note—bold text above indicates that the Midtown EIR found impacts to be significant and unavoidable)

Mitigation Measure Traffic-1 from the Midtown EIR notes that the Midtown Specific Plan requires a number of traffic and transportation improvements, including but not limited to new and improved roadways, intersection geometrics and similar improvements as well as requiring development in the Specific Plan area to pay their respective fair share of such improvements. Impacts at six of the above intersections could be mitigated to a less-than-significant level. Full mitigation would not be feasible for the remaining eight intersections and there impacts were deemed to be significant and unavoidable. Intersections with significant and unavoidable impacts are bolded above.

Impact Traffic-2: Unacceptable Freeway Operations (baseline Plus Project)
The addition of project traffic from the Midtown Specific Plan area would exacerbate already unacceptable traffic operations on one of ten freeway study segments (AM

Peak) and all ten of the freeway segments (one or both directions) during the PM peak hour. This was identified as a significant impact in the Midtown EIR.

Mitigation Measure Traffic –2 included in the Midtown EIR noted that mitigation for regional freeway impacts would include participation in the Countywide Deficiency Plan (CDP) prepared by the Valley Transportation Authority. Such participation would result in payment of development fees to fund regional freeway improvements to assist in off-setting project impacts. However, as of the preparation of the Midtown EIR, the CDP had not been approved and no guaranteed existed at that time that improvements in the regional system could be achieved. This, impacts to freeway operations were found to be a significant and unavoidable impact.

Impact Traffic-3: Future Conditions-Unacceptable Roadway Segment Operations. The addition of proposed project traffic under cumulative conditions would significantly exacerbate AM peak hour operations on ten roadway segments that were identified to operate at unacceptable levels under the General Plan. The proposed Specific Plan would also cause two segments to degrade from LOS D or better to LOS E or F. During the PM peak hour, development within the Midtown Specific Plan was anticipated to significantly exacerbate operations on 10 of the 35 study intersections analyzed in the Midtown EIR and would also cause two additional segments to operate unacceptably. This was considered a significant impact.

Mitigation Measure Traffic-3 noted that the City of Milpitas had taken on the task of widening Montague Expressway between Great Mall Parkway-Capitol Avenue and I-680 to four lanes in each direction, one of which would be a dedicated HOV lane during the AM and PM peak hours. However, this improvement would not reduce traffic impact to a less-than significant level. No other feasible mitigation measures were found feasible to reduce impacts at other roadways to less-than-significant levels due to lack of sufficient right-of-way, the presence of buildings that would be affected and the high cost of right-of-way acquisition. Impact Traffic-3 was therefore identified as a significant and unavoidable impact.

Transit Service. The Midtown EIR noted that the Midtown Specific Plan was consistent with VTA and other regional policies that encouraged public transit use and no significant impacts were identified.

Pedestrian and Bicycle Facilities. No impacts were identified related to pedestrian or bicycle facilities or safety, since the Midtown Specific Plan includes a number of goals and policies to encourage bicycle and pedestrian facilities in the planning area. These include new and improved sidewalks and bicycle lanes.

Parking. The Midtown EIR noted that parking within the Specific Plan area is located in off-street lots and on-street spaces throughout the planning area. Parking for proposed development projects would be required to comply with City of Milpitas on-site parking spaces to ensure that adequate parking would be provided to the fullest extent feasible. On-site parking would be supplemented by more on-street

parking and potential public parking lots. Impacts to parking was therefore determined to be less-than-significant.

SUPPLEMENTAL IMPACTSAND MITIGATION MEASURES

Introduction. This section assesses whether significant new or intensified traffic impacts may result from changing land uses within the Estrella project area. The resulting land use changes would result in a change in trip generation and potential changes in the Specific Plan's traffic impacts. This section outlines the baseline traffic conditions (with the previously approved Specific Plan land uses), details the trip generation associated with the revised Specific Plan and identifies changes in traffic impacts/mitigation measures resulting from proposed amendment to the Specific Plan. Note that the proposed Estrella project was slightly modified following the completion of this section of the DSEIR so that the number of dwellings were reduced to 369 dwellings from 376 dwellings analyzed in the following. This slight reduction will not change any of the supplemental impacts or mitigation measures identified in this section.

Standards of Significance. According to the City of Milpitas, as well as the CMP, project impacts at signalized intersections occur when:

- The level of service at an intersection drops below its LOS standard (LOS E at CMP intersections, and LOS D on city streets) when project traffic is added; or

- An intersection that is operating worse than its level of service standard under background conditions has an increase in critical delay of four or more seconds, and the demand-to-capacity ratio (V/C) is increased by more than .01 when project traffic is added.

The exception to this threshold is when the addition of project traffic reduces the amount of average stopped delay for critical movements (i.e. the change in average stopped delay for critical movements is negative). In this case, the threshold is when the project increases the critical V/C value by .01 or more.

For freeway segments, the VTA and City of Milpitas standards, significant freeway impacts would occur if:

- The addition of project traffic causes a segment to drop below its levels of service standard (LOS E); or

- The amount of project traffic added to a segment already operating at LOS F is more than 0.01.

For roadway segments, significant impacts would occur if:

- The addition of project traffic from a proposed General Plan Amendment degrades operations under the current General Plan from an acceptable (LOS D or better) to an unacceptable level (LOS E or F); or

- The amount of project traffic added to a segment already operating at LOS F is more than 0.01.

For cumulative conditions, the traffic operations at the study roadway segments were evaluated based on the volume-to-capacity ratio, which can be correlated to a level of service. Under cumulative conditions, a project is said to adversely impact a roadway segment if:

- The roadway segment is projected to operate below its LOS standard under the existing general plan and the proposed general plan change is projected to cause an increase in traffic of at least one percent of its capacity, or

- The roadway segment is projected to operate at or better than its LOS standard under the existing general plan and the proposed general plan change is projected to degrade the level of service to less than acceptable levels.

On roadway segments under cumulative conditions, a project is said to benefit a roadway segment if:

- The roadway segment is projected to operate below its LOS standard under the existing general plan and the proposed general plan change is projected to cause a decrease in traffic of at least one percent of its capacity.

For CMP roadway segments, the minimum acceptable level of service is LOS E. At roadway segments in Milpitas that are not CMP roadway segments, the minimum acceptable level of service is LOS D. Calaveras Boulevard, Montague Expressway, and I-880 are the CMP roadways analyzed for this study.

Future Baseline Traffic Conditions. This section describes background traffic conditions. Background conditions are defined as conditions just prior to completion of the proposed development. Traffic volumes for background conditions comprise volumes from existing traffic counts plus traffic generated by other approved developments in the vicinity of the site. Traffic volume and roadway network assumptions are described below. The pedestrian and bicycle facilities were assumed unchanged from those of existing conditions.

Roadway improvements
There is one intersection improvement that is planned under background conditions. The intersection improvement is part of the City of Milpitas Capital Improvement Project (CIP). The improvement is described below.

South Main Street and Montague Expressway. A second southbound left-turn lane will be added to the intersection.

All other transportation system elements will remain the same as existing conditions.

Background traffic volumes
Background peak-hour traffic volumes were calculated by adding to existing volumes the estimated traffic from approved but not yet constructed developments. The added traffic from approved but not yet constructed developments was supplied by the City of Milpitas and the City of San Jose and can be found in Appendix C of the traffic analysis document.

Approved developments
Following are the approved developments that would produce trips in the study area:

- Cisco Systems Site 4 -San Jose = 330,000 s.f.
- Tasman/McCarthy Business Center = 400,000 s.f.
- Irvine Company R&D -Phase 2 = 736,728 s.f.
- Great Mall GLA Recapture = 60,000 s.f.
- Cisco Systems Site 5 – Milpitas = 225,000 s.f.
- Veritas Software = 991,000 s.f.
- Park Place Residential = 280 MFD
- Jones Chemical R&D Development = 80,000 s.f.
- Elmwood Residential Project = 722 SFD/MFD
- 760 East Capitol Retail = 12,265 s.f. office/retail
- Fairfield Residential Development
- RGC Residential Development
- Hillview Center Mixed-use Development
- Apton Plaza Mixed-use Development
- North Main Street – Library

Intersection operations
Intersection level of service calculations were conducted to evaluate the operating levels of the key signalized intersections under background conditions. The results are shown on Table 4.5.2. The TRAFFIX calculation sheets are included in Appendix B of the traffic analysis report. According to City of Milpitas and CMP guidelines, the following intersections will operate at unacceptable levels (LOS F) during the PM peak hour as shown in Table 4.5.2.

- Great Mall Parkway/East Capitol Avenue and Montague Expressway
- McCandless Drive/Trade Zone Boulevard and Montague Expressway
- South Main Street and Montague Expressway
- McCarthy Boulevard/O'Toole Avenue and Montague Expressway

The remaining study intersections are projected to operate at acceptable levels during both peak hours.

Table 4.5.2. Background Intersection Levels of Service (LOS)

Intersection	Peak Hour	Count Date	Existing		Background	
			Avg. Delay	LOS	Avg. Delay	LOS
South Abel Street/Great Mall Pkwy.	AM	5/4/05	29.9	C	35.2	D
	PM	5/4/05	28.8	C	32.0	C
South Main Street/Great Mall Pkwy.	AM	5/4/05	17.0	B	17.6	B
	PM	5/12/05	18.6	B	20.2	C
South Main Street/Oakland Rd/Montague Expy.*	AM	5/4/05	45.0	D	52.6	D
	PM	9/23/04	100.2	F	125.1	F
McCandless Dr./Trade Zone Blvd./Montague Expy.	AM	5/5/05	60.3	E	61.8	E
	PM	9/23/04	88.7	F	117.8	F
Great Mall Pkwy./East Capitol Ave./Montague Expy.*	AM	5/10/05	49.0	D	69.5	F
	PM	9/23/04	64.7	E	96.9	F
South Milpitas Blvd./Montague Expy.*	AM	5/11/05	31.8	C	31.8	C
	PM	9/23/04	35.1	D	38.3	D
McCarthy Blvd./O'Toole Ave./Montague Expy.*	AM	5/11/05	41.9	D	60.3	E
	PM	5/11/05	60.5	E	133.8	F
South Abel Street/South Main St.	AM	5/5/05	12.5	B	12.5	B
	PM	5/5/05	7.9	A	7.9	A
South Main St./Cedar Way	AM	5/11/05	15.4	B	15.4	B
	PM	5/11/05	11.6	B	11.6	B
South Abel Street/State Route 237*	AM	10/6/04	34.6	C	39.2	D
	PM	5/26/05	38.2	D	44.5	D

Note: * denotes CMP intersection
Source: Hexagon Transportation Consultants, 2006

Proposed Land Use Revisions/Trip Generation/Distribution. The impacts of the proposed project are discussed in this section. First, the method used to estimate the amount of traffic added to the roadway system by the project is described. Then, as specified by CMP requirements, individual intersections are analyzed under project conditions. Project conditions are defined as background volumes plus the additional traffic generated by the proposed project. Under project conditions, the roadway network would be the same as under background conditions.

The amount of traffic associated with a development is estimated using a three-step process: (1) trip generation, (2) trip distribution, and (3) trip assignment. In the first step, the amount of traffic entering and exiting the site is estimated on a peak hour basis. In the second step, the directions of approach and departure of project traffic are estimated. In the third step, the trips are assigned to specific streets and intersections. This process is described in the following sections.

The amount of traffic generated by the proposed project was estimated by applying the appropriate trip generation rates to the size of the development. The trip generation rates used were those published by the San Diego Association of Governments (SANDAG) for condominium uses. Based on this rate, the project is estimated to generate 241 AM peak-hour trips and 301 PM peak-hour trips.

The site currently comprises occupied industrial buildings. These were surveyed during the AM and PM peak hours in June 2006 to determine their existing trip generation. They were found to generate 101 AM and 137 PM peak-hour trips.

The existing industrial trips were subtracted from the proposed residential trips at the project site to produce the net project trips. The net trip generation for the project results in 140 trips during the AM peak hour and 164 trips during the PM peak hour. Using the inbound/outbound splits recommended by SANDAG, the project would produce 27 fewer inbound and 167 new outbound trips during the AM peak hour, and 161 new inbound and 3 new outbound trips during the PM peak hour. The project's trip generation estimates are presented in Table 4.5-3.

The VTA light rail service operates along Great Mall Parkway, which will increase the probability that the occupants of the proposed project would use transit. However, the light rail station is not located within 2,000 feet of the proposed project. Therefore, per CMP technical guidelines, no trip deduction was assumed.

Table 4.5.3. Project Trip Generation

Land Use	Size	AM Peak Hour Trips				PM Peak Hour Trips			
		Peak Hr. Rate	In	Out	Total	Peak Hr. Rate	In	Out	Total
Proposed Very High Density [1]	376	0.08	48	193	241	0.10	211	90	301
Existing Industrial Park[2]	--		75	26	101		50	87	137
Net Project Trips			**-27**	**167**	**140**		**161**	**3**	**164**

Notes:
(1) Source: Residential, Condominium (or any multi-family 6-20 du/ac). San Diego Association of Governments.
(2) 2 Source: Existing trip generation calculated from 2-hour field counts during the AM and PM peak hours on June 14, 2006.

The proposed project's trip distribution pattern was estimated based on previous traffic impact analyses and the relative locations of complementary land uses. The trips generated by the proposed project were then assigned to the roadway network based on this directional distribution during the peak hours of adjacent

street traffic. Exhibit 4.5-3 shows project distribution and Exhibit 4.5-4 depicts project trip generation assignment to local streets.

Supplemental impacts to intersection operations. Project traffic volumes were calculated by adding peak-hour, project-generated traffic to the background volumes. Intersection level of service calculations were conducted to evaluate the impacts of the proposed project at the key intersections. Background conditions served as a base from which the impacts were evaluated. The results of the level of service calculations are shown in Table 4.5.4 as well as Exhibit 4.5-5. The level of service calculation sheets are included in Appendix B of the traffic analysis document. According to the standards of significance, the proposed project would not result in any significant supplemental impacts related to intersection operations (baseline plus project) as identified in the Midtown EIR. However, the project would add traffic to intersections that are currently operating at unacceptable levels under background conditions. These include:

- Great Mall Parkway/East Capitol Avenue and Montague Expressway
- McCandless Drive/Trade Zone Boulevard and Montague Expressway
- South Main Street and Montague Expressway
- McCarthy Boulevard/O'Toole Avenue and Montague Expressway

Table 4.5.4. Project Levels of Service (LOS)

		Background		Project Conditions			
	Peak	Ave.		Ave.		Incr. In	Incr. In
Intersection	Hour	Delay	LOS	Delay	LOS	Crit Delay	Crit V/C
South Abel Street and Great Mall Parkway	AM	35.2	D	35.8	D	0.8	0.010
	PM	32.0	C	32.0	C	0.0	0.004
South Main Street and Great Mall Parkway	AM	17.6	B	17.6	B	0.1	0.003
	PM	20.2	C	20.2	C	0.1	0.008
South Main Street/Oakland Road and Montague Expressway*	AM	52.6	D	57.3	E	10.8	0.034
	PM	125.1	F	125.2	F	-0.1	0.000
McCandless Drive/Trade Zone Boulevard and Montague Expressway*	AM	61.8	E	61.8	E	-0.4	-0.002
	PM	117.8	F	118.1	F	1.7	0.003
Great Mall Parkway/East Capitol Avenue and Montague Expressway*	AM	69.5	E	69.5	E	0.0	0.000
	PM	96.9	F	96.9	F	0.0	0.000
South Milpitas Boulevard and Montague Expressway*	AM	31.8	C	31.8	C	-0.1	-0.002
	PM	38.3	D	38.7	D	0.5	0.010
McCarthy Boulevard/O'Toole Avenue and Montague Expressway*	AM	60.3	E	60.7	E	0.5	0.001
	PM	133.8	F	134.2	F	0.5	0.002
South Abel Street and South Main Street	AM	12.5	B	12.5	B	-0.2	0.007
	PM	7.9	A	8.3	A	0.4	0.007

South Main Street and Cedar Way	AM		15.4	B		15.4	B	0.0	-0.002
South Abel Street and SR 237*	AM		39.2	D		39.2	D	0.0	0.000
	PM		44.5	D		44.6	D	0.0	0.000
* Denotes CMP intersection									

The City of Milpitas requires projects to pay their "fair share" of the traffic improvement costs. Currently, the City and County have plans to widen Montague Expressway. Since the proposed project would contribute traffic to deficient intersections on Montague Expressway, it will be required to make a monetary contribution toward the Montague improvements. Also, the project will be required to pay its "fair share" contribution towards the South Main Street median project. Assessment will be calculated based on the linear frontage of the project along South Main Street.

However, impacts to those intersections identified in the Midtown EIR as *significant and unavoidable* would not change.

North San Jose Deficiency Plan impacts. Under background conditions using only San Jose's Approved Trips (as specified by San Jose), the 22- intersection average delay was 77 seconds. With the addition of project traffic, the 22-intersection average would remain at 77 seconds. This information is summarized in Table 4.5.5 and in Appendix B of the traffic analysis document. According to the NSJDP impact criteria, the proposed project would not have an impact on the North San Jose Deficiency Plan, and therefore, mitigation would not be required.

Table 4.5.5. Project Levels of Service (LOS)-Deficiency Plan

	Background				Project		
	Avg.				Avg.		
Intersection	Delay /a/		LOS		Delay /a/		LOS
SR 237/North First Street (N)	113	/b/	F		113	/b/	F
SR 237/North First Street (S)	80		F		80		F
North First Street/Trimble Road	80		E		80		E
North First Street/Brokaw Road	151		F		151		F
I-880/North First Street (N)	17		B		17		B
I-880/North First Street (S)	18		B		18		B
SR 237/Zanker Road (N)	12		B		12		B
SR 237/Zanker Road (S)	18		B		18		B
Zanker Road/Trimble Road	121		F		121		F
Zanker Road/Brokaw Road	65		E		65		E
Montague Expressway/North First Street	154		F		154		F
Montague Expressway/Zanker Road	86		F		86		F
Montague Expressway/Trimble Road	144		F		144		F
Montague Expressway/McCarthy Boulevard	141		F		142		F

Montague Expressway/Old Oakland Road	100		F		105		F
Montague Expressway/Trade Zone Boulevard	84		F		84		F
Trimble Road/De La Cruz Boulevard	136		F		136		F
U.S. 101/Brokaw Road	34		C		34		C
I-880/Brokaw Road (W)	36		D		36		D
I-880/Broakw Road (E)	18		B		18		B
Brokaw Road/Old Oakland Road	49		D		49		D
Murphy Avenue/Lundy Avenue	43		D		43		D
Average	77		E		77		E
/a/ Whole intersection weighted average stopped delay expressed in seconds per vehicle.							
/b/ Intersection delay is capped at 150% of the cycle length.							

Cumulative (future) conditions. This section presents a summary of the traffic conditions that would occur under cumulative conditions. The analysis of cumulative conditions was conducted based on projected roadway link volumes using year 2030 land use data. AM and PM peak hour volumes were developed using the Valley Transportation Authority (VTA) Congestion Management Program (CMP) year 2030 Travel Demand Forecast (TDF) model. All *Existing General Plan* traffic volumes for year 2030 were supplied by the City of Milpitas.

The year 2030 roadway network includes planned transportation improvements. The improvements included in the VTA CMP TDF model have a high probability of receiving funding in the future. Within the study area, the following improvements were included:

- I-880 Widening Projects. I-880 will be widened to include a high occupancy vehicle lane and auxiliary lane in each direction from Montague Expressway north into Alameda County.

- Calaveras Boulevard. Calaveras Boulevard will be widened to six lanes between Milpitas Boulevard and Abel Street. Operational improvements are also planned for intersections on Calaveras Boulevard between I-680 and I-880.

- Montague Expressway**.** Montague Expressway will be widened to provide eight lanes between Great Mall Parkway and I-880. The intersection of Montague Expressway and Great Mall Parkway is planned for grade separation.

Planned improvements outside the study area are described in the VTA Valley Transportation Plan 2030, which is on file with the City of Milpitas. It should be noted that some VTP 2030 projects in the City of Milpitas have been identified for VTP 2030 funding. However, the City is still responsible for the 20 percent local match. Therefore, additional monetary contributions for these projects are necessary.

The proposed project would convert the project site from an industrial designation in the existing General Plan to a residential designation. This would require a General Plan Amendment (GPA). For the purposes of estimating the change in the General Plan designation, the traffic impacts of the project were evaluated relative to what is currently occupying the site. The current site was counted during the AM and PM peak hours to determine its existing trip generation. The traffic estimates for the proposed GPA were produced using a three-step process:

- Traffic Generation**.** A comparison of the trip generation between the proposed residential project and the existing land use is shown in Table 9. The proposed GPA would increase the trip generation from the site by 140 trips during the AM peak hour and 164 trips during the PM peak hour.

- Traffic Assignment**.** The peak hour trips generated by the existing industrial use and the proposed residential project were assigned to the roadway network in accordance with the trip distribution pattern shown in Figure 8.

- Traffic Volume Tabulation**.** For each roadway link, the projected peak hour traffic volumes with the proposed GPA were estimated by subtracting the trips generated by the existing industrial use from the existing General Plan traffic volumes, and adding the estimated traffic generated by the proposed residential land use.

Cumulative (future) roadway segment impacts. Year 2030 conditions were evaluated relative to the existing General Plan in order to determine potential future impacts to roadway segments near the project site. The impacts of the proposed General Plan change are summarized on Tables 10 and 11 of the traffic analysis document. According to City of Milpitas and CMP standards, the proposed project would create significant impacts on two roadway segments during the AM and PM peak hours: one segment on Montague Expressway and one segment on South Main Street. These would be *significant supplemental impacts* of the project that were not identified in the Midtown EIR.

Supplemental Impact TRA-1 (future roadway segment impacts). In the year 2030, traffic generated by the proposed project along with other buildout traffic, would cause the roadway segments of Montague Expressway between South Main Street and I-880 (westbound) and South Main Street between Montague Expressway and South Abel Street (northbound and southbound) to exceed traffic thresholds of significance during the AM peak hour. This impact would include segments of Montague Expressway between McCarthy Boulevard and I-880 (eastbound) and South Main Street between South Abel Street to Montague Expressway (northbound and southbound) in the PM peak (*significant supplemental cumulative impact and mitigation required*).

This impact would be partially mitigated by adherence to the following measure:

Supplemental Mitigation Measure TRA-1 (future roadway segment impacts). The proposed project shall to pay a "fair share" fee toward the Montague Expressway Widening project for the roadway segment impacted along Montague Expressway

and a "fair share" fee toward the Midtown Specific Plan for the South Main Street roadway segment.

Even with payment of fair share fees, significant impacts would remain until necessary roadway improvements are completed. Collection of necessary funding to complete these projects is also unknown. Improvements to Montague Expressway are under the jurisdiction of Santa Clara County and outside the control of the City of Milpitas. Therefore, these impacts are *significant and unavoidable*.

Freeway operation impacts. The proposed Estrella project would add an estimated 58 additional AM peak hour trips and 59 PM peak hour trips to local freeways over existing land uses. According to the definition of significant impacts this amount of traffic added to the local freeways is considered insignificant and would not result in a significant supplemental impact.

Transit Impacts. The current transit service in the project vicinity consists of three VTA operated bus routes and several bus stops on Great Mall Parkway and Main Street. Field observations have shown that these facilities operate within capacity. Although the proposed project would increase the demand for such facilities in the vicinity of the site, the addition on these trips would not result in a demand for transit service greater than what is currently being provided.

The City's Main Street Plan Line Study includes a list of recommended bus stops to be added along Main Street. The closest bus stops are proposed near Cedar Way on either side of Main Street. These being the closest to the project site and most likely used by its residents, the applicant may be required to pay a "fair share" contribution toward the costs of these new bus stops.

Residents of the proposed project would reside approximately one-half mile from the Tasman east light rail station at the Great Mall of the Bay Area. The light rail station and its companion bus transfer station are operating today. The presence of these facilities might increase the likelihood that the future residents of the proposed project would ride transit. However, the incremental impact of this project on system-wide ridership would be minimal.

Exhibit 4.5-1-Existing Lane Configurations

Exhibit 4.5-2-Existing Peak Hour Traffic Volumes

Exhibit 4.5-3-Project Trip Generation

Exhibit 4.5-4-Project Trip Assignment

Exhibit 4.5-5-Project Condition Traffic Volumes

4.6 AIR QUALITY

INTRODUCTION

Air quality impacts were analyzed in Chapter 3.10 of the Midtown EIR. This supplement to the previous EIR examines the proposed project to determine if any new or more significant impacts would exist regarding traffic or circulation issues as a result of changed land uses beyond such impacts included in the previous EIR.

The following setting section provides updates, where needed, to the setting information in the Midtown EIR. Supplemental air quality calculations for the proposed Estrella project are included in Appendix 8.7 of the DSEIR.

ENVIRONMENTAL SETTING

Criteria Pollutants. Both the U. S. Environmental Protection Agency and the California Air Resources Board have established ambient air quality standards for common pollutants. These ambient air quality standards are levels of contaminants that represent safe levels that avoid specific adverse health effects associated with each pollutant. The ambient air quality standards cover what are called "criteria" pollutants because the health and other effects of each pollutant are described in criteria documents. Table 4.6.1 identifies the major criteria pollutants, characteristics, health effects and typical sources. The federal and California state ambient air quality standards are summarized in Table 4.6.2.

Table 4.6.1

Table 4.6.2. Federal and State Ambient Air Quality Standards

Pollutant	Averaging Time	Federal Primary Standard	State Standard
Ozone	1-Hour 8-Hour	-- 0.08 PPM	0.09 PPM 0.07 PPM
Carbon Monoxide	8-Hour 1-Hour	9.0 PPM 35.0 PPM	9.0 PPM 20.0 PPM
Nitrogen Dioxide	Annual Average 1-Hour	0.05 PPM --	-- 0.25 PPM
Sulfur Dioxide	Annual Average 24-Hour 1-Hour	0.03 PPM 0.14 PPM --	-- 0.04 PPM 0.25 PPM
PM_{10}	Annual Average 24-Hour	50 $\mu g/m^3$ 150 $\mu g/m^3$	20 $\mu g/m^3$ 50 $\mu g/m^3$
$PM_{2.5}$	Annual 24-Hour	15 $\mu g/m^3$ 65 $\mu g/m^3$	12 $\mu g/m^3$ --
Lead	Calendar Quarter 30 Day Average	1.5 $\mu g/m^3$ --	-- 1.5 $\mu g/m^3$
Sulfates	24 Hour	--	25 $\mu g/m^3$
Hydrogen Sulfide	1-Hour	--	0.03 PPM
Vinyl Chloride	24-Hour	--	0.01 PPM

Notes:
PPM = Parts per Million
$\mu g/m^3$ = Micrograms per Cubic Meter
Source: California Air Resources Board, Ambient Air Quality Standards (5/17/06)
http://www.arb.ca.gov.aqs/aaqs2.pdf

The federal and state ambient standards were developed independently with differing purposes and methods, although both processes attempted to avoid health-related effects. As a result, the federal and state standards differ in some cases. In general, the California state standards are more stringent. This is particularly true for ozone and particulate matter (PM_{10} and $PM_{2.5}$)

Suspended particulate matter (PM) is a complex mixture of tiny particles that consists of dry solid fragments, solid cores with liquid coatings, and small droplets of liquid. These particles vary greatly in shape, size and chemical composition, and can be made up of many different materials such as metals, soot, soil, and dust. "Inhalable" PM consists of particles less than 10 microns in diameter, and is defined as "suspended particulate matter" or PM_{10}. Fine particles are less than 2.5 microns in diameter ($PM_{2.5}$). $PM_{2.5}$, by definition, is included in PM_{10}.

In 1997 new national standards for fine Particulate Matter (diameter 2.5 microns or less) were adopted for 24-hour and annual averaging periods. The current PM_{10} standards were to be retained, but the method and form for determining compliance with the standards were revised.

The State of California regularly reviews scientific literature regarding the health effects and exposure to PM and other pollutants. On May 3, 2002, the California Air Resources Board (CARB) staff recommended lowering the level of the annual standard for PM_{10} and establishing a new annual standard for $PM_{2.5}$ (particulate matter 2.5 micrometers in diameter and smaller). The new standards became effective on July 5, 2003.

On April 28, 2005 the California Air Resources Board established a new 8-hour standard for ozone (0.07 PPM), to become effective in 2006.

Toxic Air Contaminants. In addition to the criteria pollutants discussed above, Toxic Air Contaminants (TACs) are another group of pollutants of concern. There are many different types of TACs, with varying degrees of toxicity. Sources of TACs include industrial processes such as petroleum refining and chrome plating operations, commercial operations such as gasoline stations and dry cleaners, and motor vehicle exhaust. Cars and trucks release at least forty different toxic air contaminants. The most important, in terms of health risk, are diesel particulate, benzene, formaldehyde, 1,3-butadiene and acetaldehyde**.**

Public exposure to TACs can result from emissions from normal operations, as well as accidental releases. Health effects of TACs include cancer, birth defects, neurological damage and death.

Ambient Air Quality. The Bay Area Air Quality Management District (BAAQMD) monitors air quality at several locations within the San Francisco Bay Air Basin. The closest multi-pollutant monitoring site to the project site is located in downtown San Jose on Jackson Street. Table 4.6.3 summarizes exceedances of State and Federal standards at this monitoring site during the period 2003-2005. Table 3 shows that ozone and PM_{10} exceed the state standards in the South Bay.

Of the three pollutants known to at times exceed the state and federal standards in the project area, two are regional pollutants. Both ozone and particulate matter (PM_{10} and $PM_{2.5}$) are considered regional pollutants in that concentrations are not determined by proximity to individual sources, but show a relative uniformity over a region. Thus, the data shown in Table 4.6.3 for ozone and PM_{10} provide a good characterization of levels of these pollutants on the project site.

Carbon monoxide is a local pollutant, i.e., high concentrations are normally only found very near sources. The major source of carbon monoxide, a colorless, odorless, poisonous gas, is automobile traffic. Elevated concentrations, therefore, are usually only found near areas of high traffic volumes.

Attainment Status and Regional Air Quality Plans. The federal Clean Air Act and the California Clean Air Act of 1988 require that the State Air Resources Board,

based on air quality monitoring data, designate portions of the state where the federal or state ambient air quality standards are not met as "nonattainment areas". Because of the differences between the national and state standards, the designation of nonattainment areas is different under the federal and state legislation.

The U. S. Environmental Protection Agency has classified the San Francisco Bay Area as a non-attainment area for the federal 8-hour ozone standard. The Bay Area was designated as unclassifiable/attainment for the federal PM_{10} and $PM_{2.5}$ standards.

Under the California Clean Air Act Santa Clara County is a non-attainment area for ozone and particulate matter (PM_{10} and $PM_{2.5}$) The county is either attainment or unclassified for other pollutants.

IMPACTS AND MITIGATION MEASURES FROM THE MIDTOWN EIR

The Midtown EIR identified the following air quality impacts.

Construction-Related Air Emissions . Constructions Activities associated with the proposed development would temporarily produce new air emissions. Emissions would vary substantially from day-to-day and could potentially produce substantial amounts of PM10. The Specific Plan does not include BAAQMD PM_{10} construction control measures. Because construction significance is determined by means of whether BAAQMD PM_{10} construction mitigation measures are implemented, construction emissions is a short-term significant air quality impact.

Mitigation Measure Air-1 implements BAAQMD construction dust control measures for large sites via construction contracts, and concludes that this impact would be reduced to a less-than-significant level.

Long-term Regional Air Emissions . Based on the modeling conducted, the Specific Plan would generate approximately 127 tons per year of ROG, 159 tons per year of NOx, and 63 tons per year of PM_{10}. The estimated increases in regional emissions would exceed the BAAAQMD's annual significance threshold of 15 tons per year for each of the regional criteria pollutants.

Mitigation Measure Air 2 notes that the Specific Plan contains policies directed at reducing vehicle miles traveled. While these policies would help to reduce emissions, they would not reduce them to a level of insignificance. This impact was found to be significant and unavoidable.

Cumulative Long-term Regional Impacts. Implementation of the proposed Specific Plan would generate cumulative regional mobile source emissions associated with increased vehicle use and residential emissions. Direct and indirect emissions produced by the proposed project would cumulatively contribute to existing and projected exceedances of the State and federal air quality standards in the air basin. This impact was considered significant and unavoidable.

Mitigation Measure Air 3 notes that the Specific Plan contains policies directed at reducing vehicle miles traveled. While these policies would help to reduce emissions, they would not reduce them to a level of insignificance. This impact was found to be significant and unavoidable.

The Midtown EIR contained estimates of carbon monoxide concentrations at intersections in the planning area with the addition of Specific Plan traffic. No exceedances of the State or federal ambient air quality standards were forecast and this impact was found to be less than significant.

The Midtown EIR found that carbon monoxide concentrations at intersections in the planning area with the addition of Specific Plan and other developments in the surrounding area would not result in exceedances of the State or federal ambient air quality standards. This impact was found to be less than significant.

The Midtown EIR found that while the proposed Specific Plan would generate additional housing units, and thus population, in the Midtown area, the project was not expected to result in significant growth in the San Francisco Bay region as a whole. The Specific Plan was found to be consistent with the projected growth for the region, and had been designed to address regional air quality considerations. This impact was found to be less than significant.

The Midtown EIR found that the proposed Specific Plan would include land uses that are not known odor generators. The implementation of the Specific Plan was found to reduce the potential for odor complaints as a result of the general shift from industrial land uses to commercial and office-oriented land uses. This impact was found to be less than significant.

SUPPLEMENTAL IMPACTS AND MITIGATION MEASURES

Introduction. This section assesses whether significant new or intensified air quality impacts may result from changing land uses within the Estrella project area. The resulting land use changes would result in a change in daily and peak hour trip generation and potential new sources of construction emissions. This section details the changes in emissions associated with the revised Specific Plan and identifies changes in air quality impacts/mitigation measures resulting from proposed amendment to the Specific Plan.

Standards of Significance. The BAAQMD has recommended thresholds of significance for use in environmental documents. The document *BAAQMD CEQA Guidelines*[1] establishes the following impact criteria:

- A significant impact on local air quality is defined as an increase in carbon monoxide concentrations that causes a violation of the most stringent ambient air quality standard for carbon monoxide (20 ppm for the one-hour averaging period, 9.0 ppm for the eight-hour averaging period).

[1] Bay Area Air Quality Management District, Bay Area CEQA Guidelines, 1999.

- A significant impact on regional air quality is defined as an increase in emissions of an ozone precursor or PM_{10} exceeding the BAAQMD thresholds of significance. The current significance thresholds are 80 pounds per day (or 15 tons/year) for ozone precursors or PM_{10}.
- Any proposed project that would individually have a significant air quality impact would also be considered to have a significant cumulative air quality impact.
- Any project with the potential to frequently expose members of the public to objectionable odors would be deemed to have a significant impact.
- Any project with the potential to expose sensitive receptors or the general public to substantial levels of toxic air contaminants would be deemed to have a significant impact.

The current BAAQMD significance threshold for construction dust impact is based on the appropriateness of construction dust controls. The BAAQMD guidelines provide feasible control measures for construction emission of PM_{10}. If the appropriate construction controls are to be implemented, then air pollutant emissions for construction activities would be considered less-than-significant.

Supplemental Impacts. The project proposes land use changes on the site which could result in potentially significant impacts to regional and local air quality. Anticipated supplemental impacts are identified as follows.

Demolition air emissions. The physical demolition of existing structures and other infrastructure on the site are construction activities with a high potential for creating air pollutants. In addition to the dust created during demolition, substantial dust emissions could be created as debris is loaded into trucks for disposal. This would be a *potentially significant supplemental impact*.

Supplemental Impact AIR-1 (building demolition). Demolition of existing structures on the site would generate fugitive particulate matter emissions that would temporarily affect local air quality (*significant supplemental cumulative impact and mitigation required*).

The following measure would reduce this impact to a less-than-significant level.

Supplemental Mitigation Measure SM-AIR-1 (building demolition). The following dust control measures shall be included on demolition plans and specifications by contractors during demolition of existing structures:

a) Watering should be used to control dust generation during demolition of structures and break-up of pavement.
b) Cover all trucks hauling demolition debris from the site.
c) Use dust-proof chutes to load debris into trucks whenever feasible. Watering should be used to control dust generation during transport and handling of recycled materials.

Regional air emissions. The project would change the number of daily vehicle trips generated by the project site, resulting in additional air pollutant emissions affecting the entire San Francisco Bay Air Basin. Regional emissions associated with proposed land use change use have been calculated using the URBEMIS-2002 emission model. The URBEMIS2002 model and the conditions assumed in its use are described in Appendix 7.

The incremental daily emission increase associated with the proposed land use change is identified in Table 4.6.3 for reactive organic gases and oxides of nitrogen (two precursors of ozone) and PM_{10}. The estimated emissions from the Midtown Specific Plan EIR are also shown, as are the Bay Area Air Quality Management District's thresholds of significance for these pollutants.

Table 4.6.3. Project Regional Emissions in Tons Per Year

	Reactive Organic Gases	Nitrogen Oxides	PM_{10}
Current Use of the Site Proposed Project Net Change	3.52 5.70 2.18	4.50 6.85 2.35	3.53 5.29 1.76
Midtown Milpitas Specific Plan EIR Regional Emissions	126.87	158.69	63.14
BAAQMD Significance Threshold	15.00	15.00	15.00

Source: Donald Ballanti, 2006

The incremental increase in emissions associated with project land use changes emissions would not exceed the BAAQMD threshold of significance, however, the additional emissions would be additive to the emissions shown for the Midtown Milpitas Specific Plan and would result in a *significant supplemental impact*. The cumulative impacts of the Midtown Specific Plan, as amended, would remain as significant and unavoidable.

<u>Supplemental Impact AIR-2 (regional air emissions)</u>. The project would result in a small increase in the regional emissions associated with development of the Midtown Specific Plan. The increase in emissions would be less than the BAAQMD significance thresholds, but the impacts of the Midtown EIR would be significant and unavoidable (*significant and unavoidable supplemental impact*).

Although the above supplemental impact would be significant and unavoidable, the following measure is recommended to assist in reducing regional air emissions to the fullest extent feasible.

<u>Supplemental Mitigation Measure SM-AIR-2 (regional air emissions).</u> The BAAQMD has identified mitigation measures for reducing vehicle emissions from residential projects. Measures to assist in reducing vehicle and other emissions include:

a) **Consider providing a satellite telecommuting center within or near the proposed development.**
b) **Provide secure and conveniently placed bicycle parking and storage facilities.**
c) **Allow only natural gas fireplaces.**
d) **Provide direct, safe, attractive pedestrian access from project land uses to transit stops and adjacent development.**
e) **Utilize reflective (or high albedo) and emissive roofs and light colored construction materials to increase the reflectivity of roads, driveways, and other paved surfaces, and include shade trees near buildings to directly shield them from the sun's rays and reduce local air temperature and cooling energy demand.**
f) **Provide physical improvements, such as sidewalk improvements (if needed), landscaping and bicycle parking that would act as incentives for pedestrian and bicycle modes of travel.**

The above mitigation program would be expected to reduce emissions by 5-10%. After mitigation, the air quality impacts of the amended Midtown Specific Plan would remain *significant and unavoidable*.

Cumulative air emissions. The incremental increase in emissions associated with project land use changes emissions would not exceed the BAAQMD threshold of significance. Implementation of the proposed amended Specific Plan would generate cumulative regional mobile source that would cumulatively contribute to existing and projected exceedances of the State and federal air quality standards in the air basin. This would be a *significant supplemental impact*. This impact was identified as a significant and unavoidable impact in the Midtown EIR and would remain significant and unavoidable.

<u>Supplemental Impact Air-3 (cumulative air emissions)</u>. The project would result in a small increase in the regional emissions associated with development of the Midtown Specific Plan. The increase in emissions would be less than the BAAQMD significance thresholds, but the cumulative impacts of the Midtown Specific Plan would be significant and unavoidable (*significant and unavoidable impact).*

Adherence to Supplemental Mitigation Measure SM-Air-2 would assist in reducing cumulative air quality impacts, but would not reduce this impact to a less-than-significant level.

Less-than-significant air quality impacts. The following potential supplemental air quality impacts have been deemed to be less-than-significant:

- Local mobile source carbon monoxide concentrations. The peak hour traffic changes that would result from the proposed land uses changes would have a very minor effect on concentrations of carbon monoxide at intersections in the planning area. The region is an attainment area for the state and federal standards and no exceedances of the State or federal ambient air quality standards would be expected with the proposed land use changes.

- Cumulative local mobile source carbon monoxide concentrations. The Midtown EIR found that carbon monoxide concentrations at intersections in the planning area with the addition of Specific Plan and other developments in the surrounding area would not result in exceedances of the State or federal ambient air quality standards. The peak hour traffic changes that would result from the proposed land uses changes would have a very minor effect on concentrations of carbon monoxide at intersections in the planning area..

- Air quality management plan consistency analysis. The proposed land use change would not result in significant growth in the San Francisco Bay region as a whole. The Specific Plan was found to be consistent with the projected growth for the region, and had been designed to address regional air quality considerations.

- Odors. The proposed land use change would not introduce new odor sources nor expose sensitive receptors to existing adverse odors.

4.7 NOISE

INTRODUCTION

This chapter of the DSEIR analyzes changes to noise impacts as a result of proposed changes to the General Plan and Midtown Specific Plan to accommodate proposed residential land use in lieu of light industrial uses. This section of the DSEIR is based on an acoustic analysis prepared by the firm of RGD Acoustics which is included in Appendix 8.8.

ENVIRONMENTAL SETTING

Noise background
Noise can be defined as unwanted sound and is commonly measured with an instrument called a sound level meter. The sound level meter "captures" sound with a microphone and converts it into a number called a sound level. Sound levels are expressed in units of decibels (dB).

To correlate the microphone signal to a level that corresponds to the way humans perceive noise, the A-weighting filter is used. A-weighting de-emphasizes low-frequency and very high-frequency sound in a manner similar to human hearing. The use of A-weighting is required by most local agencies as well as other federal and state noise regulations (e.g. Caltrans, EPA, OSHA and HUD). The abbreviation

dBA is often used when the A-weighted sound level is reported.

Because of the time-varying nature of environmental sound, there are many descriptors that are used to quantify the sound level. Although one individual descriptor alone does not fully describe a particular noise environment, taken together, they can more accurately represent the noise environment. There are four descriptors that are commonly used in environmental studies; the L_{max}, L_{eq}, L_{90} and DNL (or CNEL).

The maximum instantaneous noise level (L_{max}) is often used to identify the loudness of a single event such as a car pass-by or airplane flyover. To express the average noise level, the L_{eq} (equivalent noise level) is used. The L_{eq} can be measured over any length of time but is typically reported for periods of 15 minutes to 1 hour. The background noise level (or residual noise level) is the sound level during the quietest moments. It is usually generated by steady sources such as distant freeway traffic. It can be quantified with a descriptor called the L_{90} which is the sound level exceeded 90 percent of the time.

To quantify the noise level over a 24-hour period, the Day/Night Average Sound Level (L_{dn}/DNL) or Community Noise Equivalent Level (CNEL) is used. These descriptors are averages like the L_{eq} except they include a 10 dBA penalty for noises that occur during nighttime hours (and a 5 dBA penalty during evening hours in the CNEL) to account for peoples increased sensitivity during these hours.

In environmental noise, a change in the noise level of 3 dBA is considered a just noticeable difference. A 5 dBA change is clearly noticeable, but not dramatic. A 10 dBA change is perceived as a halving or doubling in loudness.

Existing noise exposure
The project site is bounded by Montague Expressway to the south and South Main Street to the east. The project site is currently occupied by several large buildings, housing a number of technology related businesses. Single-family residences abut the site to the north and west, and are separated from the site by a 7 foot tall concrete wall. A gas station is located southeast of the site, on the corner of South Main Street and Montague Expressway. The gas station is also separated from the site by a 7-foot concrete wall.

The existing noise environment at the site is dominated by traffic on Montague Expressway and South Main Street. Noise measurements were made on and around the project site to quantify the existing noise environment. The measurements included four long-term, 48 hour noise measurement (Location A, B, C and D) and four short term, 15–minute measurements (Locations 1, 2, 3 and 4). The measurement locations are shown in Figure 1 of the acoustic analysis in DSEIR Appendix 8.8.

The short-term measurements were made at locations that represent the noise exposure of existing and proposed residences. The short-term measurement results were correlated with simultaneous measurements at the long-term monitoring location to determine the DNL at the short-term measurement locations. Table 4.7.1 shows the

results of the short-term measurements.

Table 4.7.1. Noise Measurement Results, 13 June 2006

	Location	Time	A-weighted Sound Level, dBA				
			L_{eq}	L_{10}	L_{50}	L_{90}	L_{dn}*
1	On top of berm by Monitor D, 75 ft to centerline of Montague Expressway, 5 ft elevation	4:15:00 PM - 4:30:00 PM	74	78	72	65	78
2	On top of berm by Monitor A, 53 ft to centerline of South Main St, 5 ft elevation	4:45:00 PM - 5:00:00 PM	68	71	65	54	70
3	Northwestern corner of site by Monitor B, 19 ft w. of Mon. B, 12 ft elevation	5:15:00 PM - 5:30:00 PM	57	59	56	54	58
4	Behind gas station, 20 ft north of gas station wall, 18 ft elevation	5:45:00 PM - 6:00:00 PM	64	66	64	61	68

Note:

*Estimate of L_{dn} based on comparison of short-term measurements with results of long-term measurement.

Source: RGD Acoustics, 2006

Regulatory standards.

Milpitas General Plan. The City of Milpitas adopted a Noise Element as a part of their General Plan. The Noise Element has compatibility guidelines for various types of land uses that are expressed in terms of DNL. Table 4.7.2, below lists the guideline levels for residential land uses as found in the Noise Element. The Noise Element also specifies compatibility guidelines for outdoor use areas: "Where actual or projected rear yard or exterior common space noise exposure exceeds the "normally acceptable" levels for new single-family and multifamily residential projects, use mitigation measures to reduce sound levels in those areas to acceptable levels". For any residential property, the City wants to avoid an increase of 3 dBA or an increase over 65 dBA, which ever is more restrictive.

The Noise Element also has an indoor requirement of a DNL of 45 dBA for new residential developments. If the windows must be closed to meet this requirement, then a mechanical ventilation system is required that does not compromise the noise reduction provided by the façade. This is consistent with the State of California Building Code.

Table 4.7.2. Land Use Compatibility for Community Noise Environments

Land Use	DNL Range	General Land Use Criteria
Residential – Multiple Family	less than 65	Normally Acceptable; specified land use is satisfactory based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.
	60 to 70	Conditionally Acceptable; new construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise insulation features included in the design.
	70 to 75	Normally Unacceptable; new construction or development should generally be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features included in the design.
	Greater than 75	Clearly Unacceptable; new construction or development clearly should not be undertaken.

Source: City of Milpitas General Plan, Table 6-1

Milpitas Municipal Code. The City of Milpitas Noise Abatement Ordinance declares it unlawful to create or permit disturbing noise in the community. The Municipal Code for the City of Milpitas does not contain any quantifiable noise standards regarding construction. However, construction must be constrained to the hours between 7:00 AM and 7:00 PM on weekdays and weekends. No construction shall occur on holidays.

California Building Code. The California Building Code requires that new housing exposed to noise levels in excess of a DNL of 60 dBA have an acoustical study prepared to show how indoor levels will achieve a DNL of 45 dBA. A ventilation or air-conditioning system will be required to provide a habitable indoor environment if windows must be closed to meet the indoor noise requirement.

IMPACTS AND MITIGATION MEASURES FROM THE MIDTOWN EIR

The Midtown EIR analyzed the following potential noise elements associated with the adoption of the Midtown Specific Plan.

Demolition and Construction noise impacts. Temporary demolition and construction impacts identified in the Midtown EIR included noise generated by earth moving equipment, trucks, use of cranes and general building construction. All of these sources typically reach high levels. Construction noise impacts would be reduced to a *less-than-significant* level by adherence to the City's Municipal Code, which restricts construction activities to the hours of 7:00 am to 7 pm, Monday through Friday.

Stationary noise sources. Stationary noise sources include the operation of heating, ventilation and air conditioning (HVAC) units, opening and closing of vehicle doors, human voices, lawn maintenance equipment and similar stationary sources. The Midtown EIR noted this noise source would be intermittent and would likely not exceed 65 lent any nearby noise receptors. Therefore, the Midtown EIR noted stationary noise sources would be *less-than signific*ant.

Project-generated traffic noise impacts. Noise levels on streets within the Specific Plan project area would increase by less than 3 dbA, which not be a noticeable increase in the ambient noise level. This was deemed a *less-than-significant* impact.

Compatibility of proposed land use with the noise environment. Based on increases in project-related vehicular traffic, predicted noise levels for proposed multi-family uses would likely exceed the City's "normally acceptable" range for land use compatibility standards. General Plan Policy 6-I-5 requires site-specific acoustic analyses for multi-family projects as they are filed with the City of Milpitas. Specific noise reduction measures recommended by the acoustic analysis would then be incorporated into the design of each residential development. Therefore, this impact was deemed *less-than-significant*.

SUPPLEMENTAL IMPACTS AND MITIGATION MEASURES

Significance Criteria. Noise sources would be considered significant if noise sources would:

- result in construction activities that occur outside the City's specified houses of construction operations of 7:00 am to 7:00 pm, Monday through Friday;
- generate residential DNL noise exposure increases of more than 3 dB, or more than 65 dB at the nearest property line, whichever is more restrictive.
- locate land uses that exceeds the City's "normally acceptable" exterior noise levels.

Supplemental Impacts. The following supplemental noise impacts have been identified for the proposed Estrella project.

Construction Noise Impacts. Noise from construction typically occurs in four distinct phases: site preparation, foundation work, framing and interior work. The first two phases are typically the noisiest due to the use of heavy machinery. Other equipment typically used during the earlier phases include haul trucks, excavator type pier drillers, concrete pumps, and concrete mixing trucks.

Maximum noise levels during grading and foundation work would range from 80 to 90 dBA at 50 feet from the noise source. The proposed buildings along the north and west side of the site are about 20 feet from the adjacent residential property line. The noise level from these initial noisy phases would range from 84 to 94 dBA. When site preparation and grading occurs for buildings A, B and C toward the center of the site noise levels would be lower and range from 75 to 85 dBA. These levels would be distinctly audible and could interfere with outdoor activities and some indoor activities with windows open. As construction progresses, noise levels would tend to be lower and once the buildings are enclosed, noise levels would be further reduced by 10 to 15 dBA.

The City of Milpitas Municipal code does not have any quantitative noise standards regarding construction. However, it does restrict construction to the hours between 7:00 am and 7:00 pm on weekdays. No construction is allowed on holidays. Due to the proximity of homes and potential for annoyance and speech interference outdoors, the noise from construction is considered a *potentially significant supplemental impact*. This impact was not identified in the Midtown EIR since no construction was proposed on the Estrella site.

Supplemental Impact NOISE-1 (construction noise impacts). Activities required to demolish existing improvements on the project site and construct townhouses and condominiums would result in significant noise generation for adjacent sensitive receptors (*significant supplemental impact mitigation required).*

The following measure is recommended to reduce this impact to a less-than-significant level.

Supplemental Mitigation Measure SM-NOISE-1 (construction noise impacts). To reduce daytime noise impacts due to construction, the project sponsor shall require construction contractors to implement the following measures:

a) **Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible).**
b) **Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures to the extent feasible.**
c) **Monitor the effectiveness of any noise attenuation measures by taking noise measurements to the extent there are persistent and on-going complaints.**

Prior to the issuance of building permit, along with the submission of construction documents, the project sponsor shall submit to the City Building Department a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

d) A plan for posting signs on-site pertaining to permitted construction days and hours and complaint procedures and who to notify in the event of a problem;
e) A listing of telephone numbers (during regular construction hours and off-hours);
f) The designation of an on-site construction complaint manager for the project;
g) Notification of neighbors at least 30 days in advance of pile-driving and/or other extreme noise-generating activities about the estimated duration of the activity; and
h) A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

Land use compatibility. Proposed buildings on the project site would be exposed to a future DNL of up to 79 dBA along Montague Expressway and 73 dBA along South Main Street. Proposed outdoor use areas include courtyards in the middle of Buildings A, B and C, a pool toward the rear of the site and balconies**.**

The pool area and courtyards would receive sufficient acoustical shielding from the proposed buildings surrounding them to meet the City's DNL 65 dBA standard. Some of the balconies would be exposed to noise levels over a DNL of 65 dBA and require solid balcony railings if they are required to meet the standard. Based on the latest site plan, a solid balcony railing (up to seven feet in height, depending on location) would suffice for all units except for the two residential townhouse buildings closest to Montague Expressway. The balconies in these two buildings would be exposed to a DNL of 79 dBA and need to be fully enclosed to meet the standard, or removed.

Based on the site plan (Exhibit 3.4), most of the buildings would be exposed to a DNL of between 60 and 75 dBA in the future. According to the Noise Element, these buildings could be constructed provided that detailed acoustical studies are made and needed noise insulation features are included in the design to meet applicable standards. Exposure to noise levels greater than a DNL of 60 dBA is considered a potentially significant impact.

The two residential townhouse buildings closest to Montague Expressway would be exposed to noise levels greater than a DNL of 75 dBA and this is considered "clearly unacceptable." However, based on City's recent experiences with the development of higher density housing adjacent to major roadways, as prescribed by the Midtown Specific Plan, impacts to these two buildings can be mitigated as described below.

The placement of air conditioning equipment on balconies may also result in excessive noise levels on balconies and within dwellings.

<u>Supplemental Impact NOISE-2 (land use compatibility impacts)</u>. Many of the buildings in the proposed Estrella complex would be exposed to exterior noise levels of between 60 and 75 DNL dBA. Two of the proposed buildings would be exposed to an exterior nose level greater than 75 DNL dBA. Balconies on the townhome and podium buildings fronting on South Main Street, as well as other balconies in buildings along Montague Expressway may also be exposed to noise levels greater than acceptable (DNL of 65 dBA) under the Noise Element. Excessive noise may also result if air conditioning equipment is placed on balconies (*significant supplemental impact mitigation required)*.

The following mitigation measure is recommended to reduce this impact to a less-than-significant level:

<u>Supplemental Mitigation Measure SM-NOISE-2 (land use compatibility impacts).</u> The following shall be incorporated into construction plans and specifications to ensure that City and State noise exposure levels are met:

a) **Sound rated windows and mechanical ventilation systems shall be required for residences that exceed City and State noise levels.**
b) **For small balconies and decks in buildings near the adjacent roadways, solid balcony railings or partial enclosures may be needed to meet acceptable levels if the outdoor standard is applied to these areas. In some dwellings that are close to adjacent roadways, decks may need to be enclosed or solid railings of up to seven feet in height may need to be installed to meet the standard. If acceptable noise levels cannot be met, balconies shall be removed.**
c) **Air conditioning equipment shall be placed in side yards of dwellings and shielded so as not to exceed a DNL of 65 dBA or otherwise increase the L_{dn} by more than 3 dBA, whichever is more restrictive.**
d) **A follow-up acoustical analysis shall be prepared during the architectural design phase and submitted to the City of Milpitas Building Division demonstrating show how the City exterior and interior standards are met.**

Stationary noise sources. Residential mechanical equipment (e.g. air-conditioners) has the potential to cause annoyance if they emit noise levels that are significantly higher than ambient noise levels. However, the type of residential ventilation equipment used for this type of project would not be expected to emit levels that are significantly louder than existing noise levels in the area and would not be expected to exceed the applicable City standard.

Air conditioning equipment may be located on the outdoor balconies of the proposed buildings. Due to the proximity of adjacent dwelling units there is a potential for these units to emit noise levels in excess of existing ambient noise levels this is considered a *potentially significant supplemental impact*.

The swimming pool and its associated machinery and activity would be located

relatively close to the existing adjacent residences to the west. Specifically, the pool house would be about 55 feet from the existing property line. Mechanical equipment associated with the pool and residents using the pool would also generate noise that would likely be audible at adjacent residences.

The existing soundwall will provide about 5 dBA of noise reduction for adjacent residences. Calculations indicate that it is unlikely that noise from people using the pool would increase ambient noise levels by more than 3 dBA or expose adjacent residences to a DNL of more than 65 dBA. However, noise from the mechanical equipment could increase noise levels and exceed the City's standard, especially if the equipment were outdoors and particularly noisy. Therefore, mechanical equipment associated with the pool is considered a *potentially significant supplemental impact*.

Supplemental Impact NOISE-3 (stationary noise impacts) . Noise generated by exterior equipment, including pool equipment, would be audible to properties off of the project site (*significant supplemental impact and mitigation required*).

The following measure is recommended to mitigate this impact to a less-than-significant level.

Supplemental Mitigation Measure SM-NOISE-3 (stationary noise impacts) . Mechanical equipment associated with the pool shall be designed so as to not exceed a DNL of 58 dBA at the adjacent property line. This would limit any increase in the DNL to less than 3 dBA and be consistent with the City standard. Specific measures to limit stationary sources could include muffling equipment, selecting low noise generating equipment and shielding significant noise sources.

In addition, air-conditioners shall be designed so as to not exceed a DNL of 65 dBA or increase existing ambient noise levels by more than 3 dBA at adjacent units. This may require that air-conditioners not be allowed on certain balconies. Possible solutions include selection of quiet air-conditioners, placement of air conditioning units on the roof of buildings or placement of the air conditioners at ground level next to buildings. In some cases air conditioning units may need to have acoustical screening (e.g. noise barriers) to allow the units to operate and not significantly increase ambient noise levels.

Less than significant impacts. The following potential supplemental noise impacts have been deemed to be less-than-significant:

- Traffic noise: In the future, traffic due to cumulative growth will increase the DNL along Montague Expressway by 3 dBA and along Main Street by 4 dBA. However, the project is contributing less than 0.5 dBA to the cumulative increase on both roadways. This would be a *less-than-significant* impact.

- Noise from adjacent auto service station: Noise from the adjacent gas station would not be expected to increase the DNL by 3 dBA due to the relatively high noise levels at the site.

4.8 HAZARDOUS MATERIALS

INTRODUCTION

Potential impacts related to the presence of hazardous materials within the Midtown EIR project area were analyzed in Chapter 3.3 of the Midtown EIR.

ENVIRONMENTAL SETTING

The Midtown EIR identified several potential sources of hazardous materials within the Midtown project Area. These include historic land uses associated with hazardous materials, current uses associated with hazardous materials, the presence of sensitive receptors in and near the Midtown area, reported hazardous materials released in the project area and other potential sources of hazardous materials.

Historic land uses associated with hazardous materials. The Midtown EIR identified historical land uses in the project area associated with the use, handling or storage of hazardous materials included railroad operations, the Ford auto assembly plant and various large warehouse and industrial buildings.

Current land uses associated with hazardous materials. The Midtown EIR identified industrial land uses in the project area that are associated with hazardous materials, including the rail yard and rail lines, truck yards, auto wrecking establishments, electro-plating businesses and construction yards. Smaller land uses that could be associated with hazardous materials include auto service stations and auto repair yards. The Midtown EIR also noted the presence of light industrial uses along the eastern and southern portions of the project area.

Sensitive Receptors. Sensitive receptors are populations especially susceptible to the effects of hazardous materials, including children, the elderly and the infirm. Land uses associated with such populations include residential areas, hospitals, day care facilities, nursing homes and schools. The Midtown EIR noted the presence of several potentially sensitive uses in and adjacent to the Specific Plan area, including a residential area north of Calaveras Avenue that also includes a church and senor center as well as commercial and residential uses along Abel Street and Main Street between Calaveras Avenue and Great Mall Parkway that includes a church, day care and youth activity center.

Reported Hazardous Materials Releases. Figure 3.3-1 contained in the Midtown EIR identifies a site on the northwest corner of Montague Expressway and South Main Street as a site where investigation or remediation is not complete. This site appears to be the existing automobile service station immediately southeast of the Estrella site.

Other Potential Hazardous Materials Issues. The Midtown EIR identified the following potential hazardous materials conditions with the Specific Plan area: the

presence of agricultural chemical residue, hazardous building materials and electromagnetic fields.

IMPACTS AND MITIGATION MEASURES FROM THE MIDTOWN EIR

The Midtown EIR noted one impact with regard to hazardous materials Impact HazMat-1 found a potentially significant impact with regard to exposure of construction workers and/or the public to hazardous materials from soil or groundwater contamination during or following redevelopment of properties within the Specific Plan area.

Mitigation Measure HazMat-1 requires preparation of a Phase I Environmental Site Assessment prior to the development or redevelopment of any site within 100 feet of any hazardous materials site identified in California Government Code Section 65962.5, which has had previous uses associated with hazardous materials. Additional investigation may be necessary for sites that do not have a record of hazardous materials or surface indication of possible hazardous materials.

Regarding release of hazardous materials during construction activities within the Specific Plan project area, the Midtown EIR notes that use, transport, handling and disposal of hazardous or potentially hazardous materials are extensively regulated by State and federal agencies which implement regulations intended to reduce the potential for foreseeable upset or accident conditions to a less-than-significant level.

Exposure to lead and asbestos from building materials was also identified as a less-than-significant impact in the Midtown EIR, since removal of hazardous and potentially hazardous building materials is regulated by the Milpitas Fire Department and other State and federal agencies. Similarly, future land use and activities in the Specific Plan area that use, store, transport or dispose of hazardous or potentially hazardous materials will be required to conform to all regulations so that such impacts would be less-than-significant.

SUPPLEMENTAL IMPACTS AND MITIGATION MEASURES

Proposed Project Changes. The proposed project would convert the site from office and research and development uses to 369 multi-family dwellings. Since existing land use on the site is one that could be associated with the use, storage, transport or disposal of hazardous or potentially hazardous materials, the applicant has prepared a Phase I Environmental Site Assessment for the site, as described below.

Standards of Significance. An impact would be considered to be potentially significant effect if it will:

- Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials;
- Result in the potential accidental release of hazardous materials into the environment;
- Result in the emission or handing of hazardous materials, substances or waste within one-quarter mile of an existing or proposed school;

- Be located on a site which is included on a list of hazardous materials that would create a significant hazard to the public or the environment.

Potential Supplemental Hazardous Materials Impacts. Consistent with Mitigation Measure HazMat-1, the project applicant completed a Phase I Environmental Site Assessment of the project site in August 2005. The report was prepared by LandAmerica Commercial Services in accordance with ASTM 1527-00. The Phase I report identified no evidence of recognized environmental conditions in connection with the project site.

The Phase I report notes on page 30 that the automobile service station immediately adjacent to the site (a Unocal station, formerly BP/Mobil) contains a remediated Leaking Underground Storage Tank (LUST). The case was closed by the Santa Clara Valley Water District in 2003 due to a decline in contaminant levels over time and natural attenuation. Residual levels of petroleum hydrocarbons are present on the service station site and possibly the project site, but concentrations of these compounds are expected to decrease over time by natural attenuation.

The Phase I report is attached as Appendix 8.9 to this DSEIR.

4.9 LAND USE AND PLANNING

Relevant planning and land use programs were not analyzed in the Midtown EIR.

ENVIRONMENTAL SETTING

Existing land use. The 11-acre project site has been developed as a low land intensity research and development, industrial park for approximately twenty years. One and two story buildings have been constructed in a series of detached complexes linked by surface parking lots and driveways.

The northerly and westerly project perimeter has been treated with a noise barrier with a height of approximately six feet and densely planted mature trees.

Surrounding land uses. Single-family residences exist to the north and west of the project site. This development consists of single and two-story dwellings and is known as "The Pines." Retail and service commercial uses have been constructed to the east and south of the proposed project. The City of Milpitas recently approved the Paragon project to the east of the Estrella site that includes construction of 147 condominium residential dwellings in 19 buildings.

Regulatory framework. Land uses, development intensity and similar characteristics are governed by three land use regulatory documents. These include the Milpitas General Plan, the Midtown Specific Plan and the Milpitas Zoning Ordinance, a portion of the Milpitas Municipal Code.

General Plan
The General Plan is the officially adopted guide for making decisions concerning the development of the community according to desired goals. The General Plan addresses location of various land uses, density and intensity of land use types, location and widths of roads, community appearance standards, health and safety considerations and similar requirements.

The Milpitas General Plan is composed of six elements governing Land Use, Circulation, Open Space and Environmental Conservation, Seismic and Safety and Noise.

Applicable land use policies contained in the Milpitas General Plan include:

- Maintain a relatively compact urban form (Guiding Principle 2.a-G-2).

- Provide for a variety of housing types and densities that met the needs of individuals and families (Guiding Policy 2.a-G-3).

- Implement the Midtown Specific Plan goals, policies and development standards and guidelines to create a mixed-use community that includes high density, transit oriented housing and a central community "gathering place" while maintaining needed industrial, service and commercial uses (Guiding Policy 2.a-I-1

Applicable Residential Development policies include:

- Create a park-like quality for all residential areas through the PUD process and the judicious siting of parks, schools and greenways throughout those areas (Guiding Principle 2.a-I-11).

- Use zoning for new developments to encourage a variety and mix in housing types and costs (Guiding Policy 2.a-I-12).

- Geographically disperse similar development types throughout the community so that denser districts are not concentrated within a single area of the City (Guiding Policy 2.a-I-13)

Guiding Principles applicable to the Midtown area include:

- Develop the Midtown area, as shown in the Midtown Specific Plan, as an attractive and economically vital district that accommodates a mixture of housing, shopping, employment, entertainment, cultural and recreational activities organized within a system of landscaped boulevards, streets and pedestrian/bicycle linkages (Guiding Principle 2.a-I-22).

- Require development in the Midtown area to conform to the adopted design guidelines/requirements contained in the Midtown Specific Plan (Guiding Policy 2.a-I-23).

Additional land use implementing polices have also been adopted as part of the General Plan and can be reviewed as part of the full text of the General Plan document.

Milpitas Zoning Ordinance

The City of Milpitas Zoning Ordinance regulates land use developments within the community by establishing a series of land use districts, each with specific development requirements. The Zoning Ordinance also establishes community-wide standards, such as signs, lighting and parking as well as providing procedures and requirements to implement the Zoning Ordinance.

The Estrella site is zoned "MP-Industrial Park," which provides for low intensity research and development, office, assembly and similar uses that do not create significant amounts of noise, odor or pollutants and which provide a substantial amount of on-site landscaping.

Midtown Specific Plan

The Midtown Specific Plan was adopted by the Milpitas City Council on March 19, 2002 for the purposes of guiding the development and further evolution of the Midtown area, encouraging the type of development that responds to City and regional needs, reflects neighborhood considerations and encourages private investment in this portion of the community.

The Specific Plan sets forth four land use goals for the Midtown area

1. Encourage a compatible mixture of residential, retail, office, service-oriented commercial and industrial uses within the Midtown area.
2. Provide for a significant component of new housing within the area in order to improve the vitality of the Midtown area, address local and regional housing needs and reinforce the use of transit.
3. Promote the intensity of development in the Midtown area that is appropriate to its central location.
4. Provide for a land use mix that supports major transit facilities.

The Specific Plan designates the project site as "Industrial Park." This land use classification is intended to accommodate research, professional, packaging and distribution facilities in a park-like setting, free from noise odors and similar nuisances.

SUPPLEMENTAL IMPACTS AND MITIGATION MEASURES

The proposed project includes amendments to the Milpitas General Plan and Midtown Specific Plan to replace the existing Industrial park land use designation with Multi Family Residential, Very High Density that would accommodate the 369 dwellings units proposed on the site. The site has also been proposed for rezoning to the R-4 District, that permits the type and density of land use proposed on the site. See Section 2.0, Project Description, for a full description of the proposed project.

Significance Criteria. Based on the Initial Study for this project, an impact would be considered to be potentially significant effect if it will:

- Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project, including but not limited to a general plan, specific plan, zoning ordinance or similar document, adopted for the purpose of avoiding or mitigating an environmental impact.

Supplemental Impacts. The proposed project would change the land use on the site from Industrial Park to Very High Density Residential.

The proposed land use change would be consistent with the Land Use Element of the Milpitas General Plan, since it would assist in maintaining a compact urban form by developing very high-density residential (Principle 2.a-G-2), provide additional very high density housing types (Principle 2.a-G-3) and further the goals of the Midtown Specific Plan (Principle 2.a-G-6). The proposed project would provide for a type of housing, podium housing, that is not common in Milpitas, thus expanding the variety and mix of housing (Principle 2.a-I-12), and the proposed housing would be dispersed from other similar housing in the Midtown area (Principle 2.a-I-13). Finally, as indicated below, the proposed project would be consistent with the goals and objectives of the Midtown Specific Plan (Principle 2.a-1-23).

The proposed land use change would be consistent with the four goals of the Midtown Specific Plan as follows:

- Proposed project uses would be consistent with surrounding retail and service commercial on abutting streets to the east and south and this DSEIR includes mitigation measures, specifically related to aesthetics and noise to ensure compatibility with lower density land uses to the west and north (Goal 1).

- The proposed project would introduce 369 very high density dwelling units into the Specific Plan area that would increase the local population and, in turn, assist in increasing local vitality, increasing transit use and adding market rate and affordable dwellings to the local housing stock (Goal 2).

- The proposed project would increase the local population by 369 dwellings which would be appropriate to its central location (Goal 3).

- The additional housing provided for in the Estrella project would provide a larger population base near major transit hubs and would support increased use of transit (Goal 4).

Therefore, there would be *no significant supplemental impacts* associated with the proposed Estrella project related to land use policies.

4.10 POPULATION, HOUSING & EMPLOYMENT

INTRODUCTION

Population, housing, employment and jobs/housing relationship topics were not addressed in the Midtown EIR but have been included in this Draft Supplemental EIR to determine of any impacts would occur.

ENVIRONMENTAL SETTING

Population. Population of Milpitas is contained in two primary source materials: the Milpitas General Plan and the document entitled *Projections 2005*, a regional estimate of growth in the Bay area prepared by the Association of Bay Area Governments (ABAG).

Table 4.9.1 compares the population of Milpitas estimated in both sources. For accuracy of comparison, the table includes population for the Milpitas planning area, which includes the incorporated portion of Milpitas plus the adjacent sphere of influence.

Table 4.10.1. Milpitas Planning Area Population Projections

	2000	2005	2010	Buildout
Milpitas General Plan	63,392	68,000	--	77,100
Projections 2005	62,810	65,500	70,400	--

Sources:
Milpitas General Plan, amended through 3/02
Projections 2005, Association of Bay Area Governments

Employment. Estimates of employment in the community are contained in Projections 2005, but not the General Plan. *Projections 2005* documented a total of 50,980 jobs in 2005 and estimated 54,340 jobs in 2010 and 58,490 jobs in 2010.

Housing. The General Plan projected the total number of dwellings within the Milpitas Planning Area of 12,417 dwellings at buildout of the General Plan.

Jobs/Housing Relationship. The General Plan notes that Milpitas was one of the fastest growing communities in terms of adding jobs between the years 1980 and 2000. In 2000, the estimates jobs per employed resident ratio was estimated to be 1.34 (134 jobs for each 100 residents) compared to a ratio of 1.14 throughout Santa Clara County. The General Plan notes that one of the consequences of a high jobs/housing ratio is the trend for workers to live in more remote locations and commute to their respective place of employment, however, due to the close proximity of housing opportunities throughout the Bay area, an increase of commuting was not anticipated.

SUPPLEMENTAL IMPACTS AND MITIGATION MEASURES

Proposed Project Changes. The proposed project would convert the site from office and research and development uses to 369 multi-family dwellings. This could have an impact on the population of Milpitas as well as employment opportunities in the community and the jobs/housing ratio. These are discussed below.

Standards of Significance. An impact would be considered to be potentially significant effect if it will:

- Induce substantial population growth in an area, either directly or indirectly;
- Significantly change the existing jobs/housing balance within the community.

Potential Housing and Population Impacts. The proposed project, if approved, would add an estimated 369 high-density housing units within the Midtown Specific Plan project area. This would equate to approximately 996 residents on the site, at a ratio of 2.7 persons per dwelling (see Table 2-4, Milpitas General Plan).

This number of dwellings would reinforce the objective of the Midtown Specific Plan to create high density housing near public transit hubs to create a critical mass for expanded retail, cultural and other land uses that may not occur without a nearby adequate housing base. There would therefore be *no significant supplemental impact* of adding to the Midtown planning area.

Proposed Employment Impacts. Conversion of the approximately 11-acre Estrella project site from the existing Industrial Park land use designation in the Midtown Specific Plan to Multi-Family, Very High Density Residential would remove approximately 166,680 square feet of research and development, office and light industrial uses to housing. The number of jobs that would be lost as a result of this project would be approximately 444, based on a ratio of one job for each 375 square feet of floor space per job (Table 2-7, Milpitas General Plan).

Given that the existing research and development, office and light industrial use affected by this project is an isolated land use located along a major transportation corridor and that ample similar uses exist elsewhere in the City better sited for this type of use, there would be *no significant supplemental impacts* created if the proposed project were to be approved.

Impacts to the Jobs/Housing Relationship. Should the proposed project be approved, the City's jobs to housing balance would improve, in that jobs would be eliminated from the City and additional housing would be created. The jobs to housing relationship would therefore come closer to the remainder of the City's jobs to housing relationship and *no significant supplemental impact* would be created.

5.0 Alternatives to the Proposed Project

The California Environmental Quality Act requires identification and comparative analysis of feasible alternatives to the proposed project which have the potential of achieving most of the project objectives, but would avoid or substantially lessen any significant impacts of the project.

The following discussion considers alternative development scenarios. Through comparison of these alternatives to the preferred project, the advantages of each can be weighed and considered by the public and by decision-makers. CEQA Guidelines require a range of alternatives "governed by the rule of reason" and require the EIR to set forth a range of alternatives necessary to permit a reasoned choice.

5.1 Alternatives Identified in the Midtown EIR

As required by CEQA, the Midtown EIR identified project alternatives that could eliminate or reduce significant impacts of the Midtown Specific Plan project. The three identified alternatives included: No Project/Existing General Plan Land Use Designations, higher density residential development and lower density development. These are described below:

No Project/Existing General Plan Alternative. This alternative assumed that the Midtown Specific Plan was not adopted and development in the Specific Plan area would be consistent with the General Plan land use designations in effect prior to adoption of the Specific Plan. Land uses would consist primarily of light industrial and general commercial uses rather than housing and office uses proposed in the Specific Plan. The Midtown EIR noted the No Project Alternative would not allow development of the City's regional housing needs. This Alternative would accommodate an estimated 664 dwellings, approximately 4,600 dwellings that would be permitted under the Midtown Specific Plan.

The Midtown EIR noted that the No Project Alternative would generate less wastewater than the proposed project, greater PM peak hour trips and greater air emissions than the proposed project.

Higher Density Residential Development. The second alternative considered in the Midtown EIR included land uses generally consistent with the Midtown Specific Plan, however, two of the properties would have differing land uses than the Specific Plan. The Serra Center was assumed to be developed as Multi-Family/Very High Density Residential rather than General Commercial. Also, the northerly portion of the Elmwood Surplus site would be designated as Multi-Family/Very High Density Residential rather than General Commercial.

Pursuant to the Higher Density Residential Alternative, the Midtown EIR noted that fewer AM and PM vehicular trips would occur that would result in less noise generated on adjacent streets and less air pollutants than the proposed project. This Alternative would also generate less wastewater generation than the proposed Midtown Specific Plan.

Lower Density Alternative. The Lower Density Alternative assumed the general pattern of development as under the Midtown Specific Plan; however, redevelopment of the Calaveras area was assumed to occur at a lower development intensity than the Midtown Specific Plan yielding approximately 300,000 less square feet of office development in this portion of the planning area. Densities of new residential development was assumed to occur at lower density, yielding 2,950 dwellings rather than 4,860 dwellings under the Specific Plan. Less infill development was assumed in the South Main Street area. A combination of highway-oriented retail uses was assumed on the Elmwood surplus land rather than general commercial uses. Finally, fewer sites were assumed to be developed for residential uses in the southern portion of the Specific Plan area.

The Midtown EIR concluded that the Lower density Alternative would result in less waste demand and wastewater generation than under the proposed Specific Plan. It would also result approximately 70 percent fewer trips than the Specific Plan and would have fewer air quality emissions as the proposed Specific Plan.

5.2 Alternatives Identified in the 2006 Supplemental EIR

This Supplemental EIR has identified one additional alternative applicable to the Estrella site. This would include demolition of existing improvements and development of the 11-acre site as Multifamily Medium Density Residential, which permits 7 to 11 dwellings per acre. This land use designation include single-family attached and semi-detached houses and duplexes.

Under the Multifamily Medium Density Residential alternative, it is assumed that the Estrella site would be developed with attached or semi-detached single-family dwellings at the mid-point density of 9.0 dwellings per acre. This would equate to 99 dwellings. There would also likely be a mini-park within the project area.

An analysis of the impacts of the Multi-Family Medium Density Residential Alternative is as follows:

- *Aesthetics*: Dwellings constructed under the Multifamily Medium Density Alternative would likely contain two stories rather than three stories as would be the case under the proposed project. Given the presence of the existing fence and landscape screen along the northerly and westerly property lines, aesthetics impacts would be less-than-significant. Mitigation Measures included in this DSEIR regarding spill over of light onto adjacent properties would continue to apply to this alternative as well,

- *Utilities*: Impacts to utilities would be less under this alternative than the proposed project. Specifically, the attached single family dwellings would use approximately two-thirds less water and generate approximately two-thirds less wastewater than the proposed project due to the lower dwelling unit count.

- *Public Services*: The proposed Multifamily Medium Density Residential alternative would generate approximately the same impacts to municipal service providers, since there would likely be no need to expand police or fire facilities to serve the 99 dwellings that would be constructed under this alternative. This alternative would likely generate fewer school-aged children as the proposed project, but payment of required school fees would reduce this impact to a less-than-significant level.

- *Cultural Resources*: This alternative would disturb the same amount of surface area of the site as the proposed project, since all existing improvements would be removed and the site regarded to accommodate single family attached dwellings. Mitigation measures contained in the Midtown EIR would continue to apply to this alternative.

- *Traffic and Circulation*: This alternative would result in fewer trips being contributed to local and regional streets and freeways; however, due to present and anticipated congestion on nearby streets, this alternative would likely result in the same impacts to roadway segments as the proposed project. Payment of impact fees would assist in providing for needed transportation improvements, but this impact would be significant and unavoidable, the same as the proposed project. All mitigation measures set forth in the Midtown EIR would continue to apply to this alternative as well.

- *Air Quality*: Although containing fewer dwellings than the proposed project, air quality impacts would be approximately the same as the proposed project, since dwellings constructed pursuant to this alternative would contribute to regional and cumulative impacts. These impacts would remain as significant and unavoidable. Short-term construction air quality impacts could be reduced to a level of less than significance, the same as the proposed project.

- *Noise*: Noise impacts would be less under this alternative than the proposed project, since there would be fewer dwellings built and it is likely that nigh noise impact portions of the site could be avoided for building purposes. The same construction and stationary noise source impacts and mitigation measures set forth for the proposed project would apply to this alternative as well.

- *Land Use and Planning*: The Multifamily Medium Density residential alternative would require amendments to the Midtown Specific Plan, since the Specific Plan does not currently include this General Plan land use designation. The lower density alternative would also not be consistent with the goals and objectives of the Midtown Specific Plan to provide very high density housing near transit hubs. Therefore, land use impacts under this alternative would be greater than the proposed project.

- *Population, Housing and Employment*: There would be no change regarding population, housing and employment under this alternative than under the proposed project. Although the numbers of dwellings and resulting population would be less, this would not be consistent with Midtown Specific

Plan goals and objectives. The jobs to housing relationship would be changed from the proposed project, in that approximately 444 jobs would be lost due to demolition of the existing light industrial complex on the site, but fewer dwellings would be constructed.

5.3 Environmentally Superior Alternative

Section 15126 (d) (4) of the State of California CEQA Guidelines states that if the environmentally superior alternative is the "No Project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives. The Midtown EIR identified the lower density alternative as the environmentally superior alternative, since this alternative would result in lower wastewater generation and less intensive traffic impacts on local and regional roads; however, there would be significant and unavoidable impacts associated with traffic and air emissions.

This DSEIR identified another alternative as a Multifamily Residential alternative. The DSEIR noted this alternative would result in somewhat less impacts in terms of traffic generation, air emissions, water demand, wastewater generation and noise impacts, but would also not be consistent with goals and objectives of the Midtown Specific Plan since it would not result in very high density housing near major transit hubs.

Therefore, the proposed Estrella project would be the Environmentally Superior Alternative.

6.0 Required CEQA Discussion

This section of the DEIR addresses the potential cumulative impacts of implementing the proposed Project, as required by CEQA.

6.1 Cumulative Impacts

Cumulative impacts are defined by CEQA Guidelines (Section 15126.2) as those which taken individually may be minor but, when combined with similar impacts associated with existing development, proposed development projects and planned but not built projects, have the potential to generate more substantial impacts. CEQA requires that cumulative impacts be evaluated when they are significant and that the discussion describe the severity of the impacts and the estimated likelihood of their occurrence. CEQA also states that the discussion of cumulative impacts contained in an EIR need not be as detailed as that provided for the Project alone.

A number of cumulative impacts were identified in the Midtown EIR. Those related to this project include:

- Traffic-1: Unacceptable Intersection Level of Service, Baseline Plus Project
- Traffic-2: Unacceptable Freeway Operations, Baseline Plus Project
- Traffic-3: Future Conditions, Unacceptable Roadway Segment Operations
- Impact Air-2: Long-term Regional Air Emissions from Specific Plan Development
- Impact Air-3: Cumulative Long-term Regional Impacts

This DSEIR finds that the above cumulative impacts would also result should the proposed Estrella project be approved and implemented.

6.2 Significant and Unavoidable Environmental Impacts

Unavoidable significant adverse impacts are those impacts that cannot be mitigated to a less-than-significant level. CEQA requires decision-makers to balance the benefits of a proposed Project against its unavoidable impacts in considering whether to approve the Project. If the benefits of the proposed Project outweigh the anticipated unavoidable impacts, the adverse environmental impacts may be considered acceptable by the Lead Agency. To approve the Project without significantly reducing or eliminating an adverse impact, the Lead Agency must make a Statement of Overriding Consideration supported by the information in the record.

Upon approval of the Midtown Specific Plan project, the City of Milpitas adopted a Statement of Overriding Considerations for the significant unavoidable impacts identified in the Midtown EIR. (Resolution 54969.) These impacts were unacceptable intersection operations for baseline plus the project, unacceptable freeway operations for baseline plus the project, unacceptable roadway operations under future conditions, long-term regional air emissions and cumulative long-term regional air emissions.

Any approval of the current Project would likewise require adoption of a Statement of Overriding Considerations for the significant unavoidable supplemental impact identified in this DSEIR, i.e., future roadway segment operations, regional and cumulative air quality impacts. Pursuant to the recent Citizens for a Better Environment case, the Statement of Overriding Considerations would also be required to address the significant unavoidable impacts from the Midtown EIR that are related to the Estrella project.

7.0 Organizations and Persons Consulted

7.1 Persons and Organizations

EIR Preparers

The following individuals participated in the preparation of this document.

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7.2 References

The following documents, in addition to those included in the Appendix, were used in the preparation of this DSEIR.

City of Milpitas, General Plan, amended thorough March 19, 2002

City of Milpitas, Milpitas Midtown Specific Plan, March 2002

City of Milpitas, Milpitas Midtown Specific Plan Environmental Impact Report, March 2002

8.0 Appendices

Appendix 8.1
Initial Study

Appendix 8.2
Notice of Preparation

Appendix 8.3
Responses to Notice of Preparation

Appendix 8.4
City of Milpitas
City Council Resolution Certifying the Midtown EIR

Appendix 8.5
Cultural Resources Report

Appendix 8.6
Traffic Impact Analysis

Appendix 8.7
Air Quality Data

Appendix 8.8
Acoustic Analysis

Appendix 8.9
Phase I Environmental Site Assessment